

The following Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th March, 1887:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to

From Under Secretary to Chief Commissioner, Central Provinces, No. 5220—307, dated 15th November, 1886 [Paper No. 1].  
 From Registrar, High Court, Calcutta, No. 2704, dated 2nd December, 1886 [Paper No. 2].  
 From Secretary to Chief Commissioner, Assam, No. 2533, dated 7th December, 1886 [Paper No. 3].  
 From Secretary to Government, Punjab, No. 23, dated 8th January, 1887 [Paper No. 4].  
 From Secretary to Chief Commissioner, Burma, No. 185, dated 7th January, 1887, and enclosures [Papers No. 5].  
 From Secretary for Berar to Resident, Hyderabad, No. 11 G., dated 7th January, 1887, and enclosures [Papers No. 6].  
 From Secretary to Chief Commissioner, Coorg, No. 39—4796, dated 8th January, 1887 [Paper No. 7].  
 From Acting Chief Secretary to Government, Madras, No. 38, dated 10th January, 1887, and enclosures [Papers No. 8].  
 From Chief Commissioner, Ajmere-Merwara, No. 31—690-11, dated 12th January, 1887 [Paper No. 9].  
 From Secretary to Government, Bombay, No. 3 T.—95, dated 19th January, 1887, and enclosure [Papers No. 10].  
 From K. Hedges, Esq., dated 10th February, 1887 [Paper No. 11].  
 From Officiating Secretary to Government, Bengal (Municipal), No. 807, dated 21st February, 1887, and enclosures [Papers No. 12].

which the Bill to regulate the supply of electricity for lighting and other purposes was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. The primary object of the Bill is to empower the Governor General in Council to make rules (a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the supply of electricity, and by any of those appli-

(b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

It appears to us that, in the present state of the electric lighting industry in India, it will suffice to make provision for the attainment of this object. We have therefore removed that portion of the original Bill which related to the grant of licenses, and have substituted in the preamble full warning that control by such or like methods may hereafter be necessary.

3. By section 3 of the Bill as amended by us we propose to require persons dealing in or using electricity to keep the authorities informed of their operations, and in section 4 we reproduce the substance of sections 8 and 9 of the original Bill respecting the making of rules by the Governor General in Council.

4. Section 5 relates to penalties, which we have reduced in amount.

5. By section 6 it is proposed to enable the Government to confer upon its officers, with respect to the placing of appliances, and apparatus for the supply of electricity for any purpose of the Government other than the transmission of messages, the same powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

6. The publication ordered by the Council has been made as follows:—

<i>In English.</i>		
<i>Gazette.</i>		<i>Date.</i>
Gazette of India	.	23rd and 30th October, and 6th November, 1886.
Fort Saint George Gazette	.	2nd November, 1886.
Bombay Government Gazette	.	28th October, 1886.
Calcutta Gazette	.	3rd, 10th and 17th November, 1886.
North-Western Provinces and Oudh Government Gazette.	.	30th October, and 6th and 13th November, 1886.
Punjab Government Gazette	.	28th October, and 4th and 11th November, 1886.
Central Provinces Gazette	.	30th October, and 13th and 20th November, 1886.
Burma Gazette.	.	13th, 20th and 27th November, 1886.
Assam Gazette	.	13th, 20th and 27th November, 1886.
Coorg District Gazette	.	1st December, 1886.

<i>In the Vernaculars.</i>		
<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthi	13th January, 1887.
	Gujaráthi	6th January, 1887.
	Kanarese	27th January, 1887.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 4th March, 1887.

T. C. HOPE.  
 ANDREW R. SCOBLE.  
 J. B. PEILE.  
 ROBERT STEEL.  
 PEARI MOHAN MUKERJI.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 1, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

(Third Publication.)

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th December, 1886:—

NO. 27 OF 1886.

*A Bill to amend the Code of Criminal Procedure, 1882.*

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (o), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house", and for the words "present at the Police-station" the words "present at the station-house".

2. In section 312 of the said Code the word "four" shall be substituted for the word "two".

#### STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to amend section 312 of the Code of Criminal Procedure, 1882, the Hon'ble the Chief Justice and Judges of the High Court at Fort William having represented that, as the law at present stands, owing to the numerous absences from Calcutta of gentlemen whose names are on the special jury list, and to the necessity of excusing special jurors from attendance on sufficient grounds, it is found necessary to summon the same gentlemen very frequently, to their manifest inconvenience and to serious interference with their business avocations.

2. A Bill to amend the Code having thus become necessary, the opportunity has been taken to cure a defect which has been noticed by the Government of Bombay in the definition of the expression "Officer in charge of a Police-station."

ANDREW R. SCOBLE.

*The 17th December, 1886.*

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



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CALCUTTA, SATURDAY, JANUARY 8, 1887.

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## PART V.

Bills introduced into the Council of His Excellency the Governor General for making Laws and Regulations or published under Rule 22.

### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

#### NO. 1 OF 1887. THE INVENTIONS AND DESIGNS BILL, 1887.

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*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 1-5.)*

*A Bill to consolidate and amend the law relating to the Protection of Inventions and Designs.*

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

1. (1) This Act may be called the Inventions and Designs Act, 1887.

Title, extent and commencement. (2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of January, 1888.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

[46 & 47 Vic., c. 57, s. 113.] (2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability

[L. R. 9 App. Cas. 589.] accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows:—

## PART I.—INVENTIONS.

## PART II.—DESIGNS.

## PART I.

## INVENTIONS.

4. In this Part, unless there is something repugnant in the subject or context,—

[Act XV, 1859, s. 38.] (1) "invention" includes an improvement

[Act XV, 1859, s. 17.] (2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor:

[New.] (3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not:

[Act XV, 1859, s. 38.] (4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to

continue or may be extended, or for any shorter term:

(5) "inventor," "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be:

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance:

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary or assistant-secretary to the Government of India to the extent to which he may be authorised by general or special order of the Governor General in Council to discharge any of those functions:

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure: and

XIV of 1882.

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure in reference to proceedings against European British subjects.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and be supplemented by such further particulars relating to the invention, and by such drawings or models illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) Nothing in this section shall be deemed to preclude an inventor who has applied for a patent in the United Kingdom from applying, while his application for the patent is still pend-

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ing, for leave to file a specification under this Part.

[Act XV,  
1859, s. 2.]

6. (1) Upon an application under the last Order to file specification, the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

[Act XV,  
1859, s. 3.]

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for enquiry and report to any person whom he thinks fit.

(3) If that person makes the enquiry and report, he shall receive such fee for his services as the Governor General in Council, after considering the report, may determine.

(4) The fee shall be paid by the applicant, who shall, before the application is sent for enquiry and report to the person appointed under sub-section (2), deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Governor General in Council, be sufficient to cover the amount of the fee.

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

[46 & 47 Vic.,  
c. 57, s. 13.]

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

[Act XV,  
1859, s. 4.]

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discre-

tion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely:—

(a) the time for making a payment shall not in any case be enlarged for more than three months; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. A specification of an invention filed under [Act XV, 1859, s. 6.] Form and contents of specification. this Part must be in writing signed by the applicant, and must particularly describe and ascertain the nature of the invention and in what manner it is to be performed.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office. [Act XV, 1859, s. 7.] Mode of filing application and specification.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be [Act XV, 1859, s. 10.] Delivery and distribution of copies of specification.





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(Part I.—Inventions.—Sections 18-24.)

Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

[Act XV,  
1859, s. 14.]

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification, or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum pointing out the error, defect or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, asking for leave to file an amended specification.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of sections 11, 12 and 14 with respect to specifications shall be applicable to the applications, orders, memoranda and amended specifications referred to in this section.

[Act XV,  
1859, s. 14.]

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

[Act XV,  
1859, s. 15.]

20. A person shall not be entitled to an exclusive privilege under this Part—

- (a) if the invention is of no utility, or
- (b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification, was not a new invention within the meaning of this Part, or
- (c) if the applicant is not the inventor thereof, or
- (d) if the specification filed or the amended specification, if any, does not particularly describe and ascertain the nature of the invention and in what manner it is to be performed, or

(e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not, before the date of the delivery or receipt of the application for leave to file the specification, been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. The use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification, shall not be deemed a public use thereof within the meaning of this Part.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the

Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.





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by sufficiently described and ascertained; and that this insufficiency was fraudulent and is injurious to the public.

[Act XV,  
1859, s. 25.]

**31.** Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say :—

- (a) that that part of the invention is wholly distinct from the other part thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, and the manner in which it is to be performed, are not sufficiently described and ascertained in the specification or the amended specification, if any, and that this insufficiency is injurious to the public.

[Act XV,  
1859, s. 26.]

**32.** (1) Any person authorised by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which the leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

[Act XV,  
1859, s. 27.]

**33.** (1) Notice of any rule obtained or proceeding taken under either of the last three foregoing sections shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other persons.

[Act XV,  
1859, s. 35.]

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place, or, if there

is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

**34.** (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 32, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon either act upon the finding of the District Court or direct a new trial as it thinks fit.

**35.** (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file the specification, or in the specification or amended specification, if any, included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insuffi-

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cient, and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file a specification amended according to the order :

Provided that nothing in the amended specification shall be construed to extend or enlarge the exclusive privilege before acquired.

Act XV,  
1859, s. 31.]

(4) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

Act XV,  
1859, s. 34.]

36. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 32, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in support of any alleged infringement or of any objection or ground impeaching the validity of the exclusive privilege which is not contained in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

Act XV,  
1859, s. 33.]

37. If, in a suit instituted in the District Court within two years from the date of the delivery or receipt of an application for leave to file a specification, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification he knew or had reason to believe that the knowledge of the

invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date of the filing of the specification, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention.

38. A Court making a decree in a suit under section 29 or section 37, or an order on an application under section 30, section 31 or section 32, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof to be made in the register of inventions and against any entry in the address-book affected thereby. [New.]

39. In the following cases, namely— [Act XV, 1859, s. 32.]

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period within which an order might have been made for enlarging the time for the making of the payment has expired ;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased ;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation of a patent ;
- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 35 in consequence of an order under that section ;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 37 ;
- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired ;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions,



*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 40-46.—Part II.—Designs.—Section 47.)*

and a reference to that entry to be made in the margin of the entry of the specification in that register.

[46 & 47 Vic.,  
c. 57, s. 90.]

40. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

[Act X, 1865,  
s. 241.]

41. A High Court to which an application has been made under section 30, section 31, section 32 or section 40 may stay proceedings on, or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

[46 & 47 Vic.,  
c. 57, s. 22.]

42. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

(a) the exclusive privilege is not being worked in British India, or

(b) the reasonable requirements of the public with respect to the invention cannot be supplied, or

(c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

[Act XV,  
1859, s. 1.]

43. If an applicant is absent from British India, an application for leave to file a specification, memorandum or amended specification may, instead of being signed by the applicant under

section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

44. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

45. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

46. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

## PART II.

## DESIGNS.

47. In this Part, unless there is something repugnant in the subject or context,—

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself;

(2) "copyright" means the exclusive right to apply a design to an article;

(3) the author of any new and original design shall be considered the "proprietor" thereof,

[Act XV,  
1859, ss. 7  
14.]

[Act I, 1870,  
Schedule I,  
Article 48,  
and 46 & 47  
Vic., c. 57,  
s. 24.]

[New.]

[46 & 47  
Vic., c. 57,  
s. 100.]

[Brice on 46  
& 47 Vic.,  
c. 57, s. 47.]

[46 & 47  
Vic., c. 57,  
s. 60.]

[46 & 47  
Vic., c. 57,  
s. 61.]

*The Inventions and Designs Bill.**(Part II.—Designs.—Sections 48-56.)*

unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor," and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise :

(4) "Secretary," "District Court" and "High Court" have the same meanings as in Part I.

[46 & 47 Vic.,  
s. 57, s. 47  
& 48.]

48. (1) Any person claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must contain a statement of the nature of the design, and be accompanied by not fewer than three copies of drawings, photographs or tracings of the design, and must be left with, or sent by post to, the Secretary.

(3) The date of the delivery or receipt of the application in the office of the Secretary shall be endorsed thereon and recorded in that office.

Act XV,  
1859, s. 2.]

49. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

[46 & 47 Vic.,  
s. 57, s. 50,  
and Act XIII,  
1872, s. 3.]

50. When a design is registered, the proprietor of the design shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

[46 & 47 Vic.,  
s. 57, s. 51.]

51. (1) Before delivery or sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all

proper steps to ensure the marking of the article.

52. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be new or original within the meaning of section 48 by reason only of the design having been exhibited at the exhibition.

53. (1) The proprietor of a registered design may institute a suit in the District Court for the recovery of any damages arising from the application of the design, or of any fraudulent or obvious imitation thereof, for the purpose of sale by any person to any article, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(3) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

54. Any person in whom the copyright in a design, or any share or interest therein, has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, or of a share or interest therein, and the Secretary may, if he sees fit, cause the entry to be made.

55. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

(2) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

56. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause

*The Inventions and Designs Bill.*

(Part II.—Designs.—Sections 57-60.—The First Schedule.—Enactments repealed.  
The Second Schedule.—Application where Patent has not been obtained.—The  
Third Schedule.—Application where Patent has been obtained.)

an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

[Act X, 1865,  
s. 241.]

57. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

[46 & 47 Vic.,  
c. 57, s. 52.]

58. An entry in the register of designs shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document, and the register or a copy thereof shall be open to the inspection of any person at all reasonable times.

[46 & 47 Vic.,  
c. 57, s. 56.]

59. (1) There shall be paid in respect of the several proceedings specified in the fifth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the fifth schedule shall be of no effect unless the fee has been paid.

[46 & 47 Vic.,  
c. 57, s. 117.]

60. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part.

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883	Protection of Inventions Act, 1883.	The whole.
I of 1879	Indian Stamp Act, 1872.	Article 48, Schedule I.

## THE SECOND SCHEDULE.

## APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 46.)

## TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1887.

1. The applicant is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and the invention is not publicly used or known in any part of British India or of the United Kingdom to the best of his knowledge and belief.

2. The following is a description of the invention (*here describe it*).

3. The applicant therefore prays for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1887.

(Signature and verification.)

## THE THIRD SCHEDULE.

## APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 46.)

## TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1887.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. The applicant believes that the invention was not publicly used or known in any part of British India at or before the date of the application for the patent.

3. The following is a description of the invention (*here describe it*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1887.

(Signature and verification.)



*The Inventions and Designs Bill.**(The Fourth Schedule.—Fees (Inventions).)**(The Fifth Schedule.—Fees (Designs).)*

## THE FOURTH SCHEDULE.

## FEES (Inventions).

(See sections 8, 15, 39 and 45.)

	Rs. a. p.
(1) in respect of an application for leave to file a specification (section 5) . . . . .	10 0 0
(2) in respect of the filing of a specification (section 8) . . . . .	30 0 0
(3) in respect of an extension of the time for filing a specification (section 8) . . . . .	20 0 0
(4) in respect of the continuance of an exclusive privilege (section 8)—	
(a) after the filing of the specification and before the expiration of the second year from the date of the filing thereof . . . . .	75 0 0
(b) after the expiration of the second year and before the expiration of the fourth year from that date . . . . .	75 0 0
(c) after the expiration of the fourth year and before the expiration of the sixth year from that date . . . . .	100 0 0
(d) after the expiration of the sixth year and before the expiration of the eighth year from that date . . . . .	100 0 0
(e) after the expiration of the eighth year and before the expiration of the tenth year from that date . . . . .	150 0 0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.	
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—	
(i) if the enlargement does not exceed one month . . . . .	10 0 0
(ii) if the enlargement exceeds one month, but does not exceed two months . . . . .	25 0 0
(iii) if the enlargement exceeds two months . . . . .	50 0 0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15) . . . . .	30 0 0

(7) in respect of an order extending the term of an exclusive privilege (section 15) . . . . .	Rs. a. p.	200 0 0
(8) in respect of an application for leave to file a memorandum or amended specification (section 18) . . . . .		20 0 0
(9) in respect of a petition to the Governor General in Council for a compulsory license (section 42) . . . . .		50 0 0
(10) for the inspection of any book or other document which is open to inspection under Part I . . . . .		1 0 0
(11) for copies—		
(a) when the number of words copied does not exceed four hundred . . . . .		1 0 0
(b) for every hundred words in excess of four hundred . . . . .		0 4 0
(c) of drawings . . . . .	cost according to agreement.	
(12) for certifying copies—		
for every hundred words . . . . .		0 2 0

## THE FIFTH SCHEDULE.

## FEES (Designs).

(See section 59.)

	Rs. a. p.
(1) in respect of an application for an order for the registration of a design (section 48) . . . . .	10 0 0
(2) in respect of a mutation of names in the register of designs (section 54) . . . . .	5 0 0
(3) for the inspection of any book or other document which is open to inspection under Part II . . . . .	1 0 0
(4) for copies—	
(a) when the number of words copied does not exceed four hundred . . . . .	1 0 0
(b) for every hundred words in excess of four hundred . . . . .	0 4 0
(c) of drawings . . . . .	cost according to agreement.
(5) for certifying copies—	
for every hundred words . . . . .	0 2 0

## STATEMENT OF OBJECTS AND REASONS.

THE Act for granting exclusive Privileges to Inventors in India, No. XV of 1859, was framed by Sir Barnes Peacock and Sir James Colvile, who, when the question of providing protection for inventors came under consideration in the years 1856-59, had to create both a substantive law and a law of procedure. Instead of following the English law, they took a different course. As regards the substantive law, while following for the most part the main lines of the English law, they did not hesitate to introduce important variations where they thought it desirable to do so. As regards the procedure for obtaining an exclusive privilege, it was altogether different from the English procedure. On petition and leave given to file a specification, and on the specification being filed within the prescribed period, the exclusive privilege sprang into existence by mere operation of law, provided, of course, that the claim was well founded in substance—a matter of which the claimant, as in England, took the risk. The procedure was thus of the simplest description.

During the period, exceeding a quarter of a century, for which the Act of 1859 has been in operation, it has worked on the whole satisfactorily. Difficulties have, however, from time to time arisen, and the increasing resort to the Act has of late brought them into greater prominence; and though these difficulties are not of such a kind as to require, in

the opinion of the Government of India, any alteration which would affect the main principles of the Act, still their removal is very desirable. It has been decided, therefore, after communication with the Secretary of State and the Board of Trade, to introduce this Bill and to incorporate in it certain provisions suggested by the Patents, Designs and Trade Marks Act, 1883 (46 & 47 Vic., c. 57, as amended by 48 & 49 Vic., c. 63).

2. The following are the provisions of the Bill which seem to call for remark:—

- (1) *Section 3.*—The Bill is divided into two Parts, the one relating to Inventions and the other to Designs. The former Part reproduces the Act of 1859 with certain modifications: the latter Part is an adaptation of the essential provisions of Part III of the English Act of 1883.
- (2) *Section 4, clause (8).*—The constitution of an Inventions Office under the superintendence of the Secretary to the Government of India in the Revenue and Agricultural Department, and the transfer to him of the functions exercised under Act XV of 1859 by the Secretary to the Government of India in the Home Department, have been under the consideration of the Government.
- (3) *Section 4, clause (10).*—It is proposed to confer the jurisdiction of a High Court under the Bill on the High Courts at Fort William, Madras, Bombay and Allahabad, the Chief Court of the Panjáb and the Recorder of Rangoon.
- (4) *Section 5, sub-section (3).*—The petition for leave to file a specification of an invention, presented under section 1 of the Act of 1859, not infrequently furnishes only a vague description of the invention which it is sought to protect, and, when a fuller and clearer description is called for, it is at times only supplied under protest. If such particulars as section 5, sub-section (3), of the Bill is intended to enable the Governor General in Council to call for are not forthcoming, the purposes of section 3 of the Act respecting references to experts may be defeated. In authorising drawings to be called for, the Bill follows 46 & 47 Vic., c. 57, section 5, sub-section (3).
- (5) *Section 5, sub-section (4), and section 25.*—A question has recently arisen as to whether a person is precluded under the existing law from proceeding to acquire concurrently a patent under the English Act and an exclusive privilege under the Indian Act; and it has been held, on the advice of the Hon'ble the Advocate General of Bengal, that he is not so precluded provided he can truly state at the time of applying for leave to file his specification in India that his invention is not publicly used or known in the United Kingdom. It is proposed therefore to provide in the Bill, on the analogy of the provisions of sections 103 and 104 of the English Act, that if an inventor applies for leave to file a specification in India within one year from the date of his application for a patent in England, his invention shall not be deemed to have been publicly used or made publicly known within the meaning of the Indian Act by reason only of the invention having been used, or a description thereof having been published, in any part of India or of the United Kingdom during the interval between his application for the patent and his application for leave to file the specification.
- (6) *Section 6.*—It is proposed by this section to make it clear that the nature and extent of the enquiry into the merits of an application are matters in the discretion of the Governor General in Council. Successive Advocates General have advised that the existing law imposes upon the Government the duty of making enquiry to an extent which must at times seriously delay the progress of an application without producing any commensurate advantage.  
It is proposed to leave to the Government, instead of to the High Court, the settlement of the fee to be paid to an expert to whom an application is referred for inquiry and report.
- (7) *Section 7.*—This section provides for the case of concurrent applications in respect of contemporaneous inventions, and follows generally the rule obtaining in England (*In re Dering*, 13 Ch. D. 393).
- (8) *Section 8, sub-section (1).*—Cases of hardship have occurred owing to there being no provision for extending the period of six months within which section 4 of the Act of 1859 requires a specification to be filed after an order authorising the filing of it has been made. It is proposed therefore, to empower the Governor General in Council, on cause shown to his satisfaction, to extend the period from six to nine months.
- (9) *Section 8, sub-sections (2), (3) and (4).*—These sub-sections follow section 17, sub-sections (2), (3) and (4), of the English Act of 1883, and are rendered necessary by the change to be presently noticed which it is proposed to make in the system of levying fees.
- (10) *Section 11.*—It does not seem necessary to have copies of specifications filed in the offices of the Secretaries to the Governments of Bengal and the North-Western Provinces. The office of the Secretaries to the Government of Bengal

is, in Calcutta, where specifications are open to inspection at the office of the Home Department of the Government of India. As regards the North-Western Provinces, communication is much easier now than in 1859, and inconvenience has not, it is believed, been found to result from the law not requiring copies to be sent to and filed by the Secretary to the Government of the Panjáb.

- (11) *Section 15.*—This section is based on section 25 of the English Act, and empowers the Governor General in Council to refer to the High Court for report an application for an extension of the term of an exclusive privilege. Following the English Act, it also makes an extension of the term for so long a period as fourteen years permissible in exceptional cases only.
- (12) *Section 17.*—This section follows section 27 of the English Act in making an exclusive privilege have the same effect against the Crown as it has against a subject. But it authorises officers of the Crown to use the invention for the services of the Crown on terms to be before or after the use thereof agreed on with the approval of the Governor General in Council or, in default of agreement, on terms to be settled by the Governor General in Council.

As regards the attaching of conditions to an order authorising the filing of a specification by a public servant, it seems to be fair and just to adopt such reasonable precautions as will prevent him from using to the prejudice of the Government experience acquired in the course of his employment.

- (13) *Section 24.*—Under section 13 of the English Act of 1883, patents must be dated and sealed as of the day of the application, and under sections 8, 9 and 12 of that Act as amended by 48 & 49 Vic., c. 63, a period of nineteen months, or even a longer period, may elapse between the application for and the sealing of, the patent. If, therefore, section 20 of the Indian Act of 1859, which limits to twelve months from the date of the patent the time for applying to the Governor General in Council for leave to file a specification of an invention patented in England, is literally construed, it may have the effect of precluding an inventor from securing an exclusive privilege in India. In order to avert the injustice or disappointment which may thus be the result of working section 20 of the Indian Act in connection with the English Act, it is proposed to permit the holder of a patent obtained in England to apply to the Governor General in Council within twelve months from the date on which the patent was actually sealed. The date of actual sealing stated in the application can be verified by reference to the Official Journal of the Patent Office.
- (14) *Section 26.*—This section covers the Protection of Inventions Act, XVI of 1883, which is scheduled for repeal. But it is proposed to protect inventions not from the date of the opening of an exhibition but from the date of their admission into the exhibition. The English Act is about to be amended in this respect.
- (15) *Section 28.*—It is proposed, on the advice of the Board of Trade, to abolish the rule of section 20 of the Act of 1859, that, where a patent for an invention has been obtained in the United Kingdom, an exclusive privilege in respect of the invention in India is not to extend beyond the term granted by the patent.
- (16) *Section 42.*—This section reproduces the substance of section 22 of the English Act, and provides for the grant of compulsory licenses where an inventor who has acquired an exclusive privilege does not make his invention accessible.
- (17) *Section 45.*—This section and the fourth schedule are based on section 24 and the second schedule of the English Act, and on the first schedule to the Patent Rules, 1883, made by the Board of Trade under the Act. Light fees are proposed to be levied in respect of applications for leave to file specifications and in respect of the filing of specifications, and increasingly heavy fees periodically in respect of the continuance of an exclusive privilege. Under section 8 of the Bill an exclusive privilege will cease if any fee in respect of its continuance is not paid within the time limited for the payment.
- (18) Part II of the Bill, relating to Designs, is, as already stated, a mere adaptation of Part III of the English Act of 1883. It extends from three to five years the period during which copyright in a design is to continue.

The 7th January, 1887.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The following Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Companies Act,

From Secretary to Chief Commissioner, Assam, No. 1657, dated 14th August, 1886 [Paper No. 1].  
 From Registrar, High Court, Calcutta, No. 2097, dated 25th August, 1886 [Paper No. 2].  
 From Secretary for Berar to Resident, Hyderabad, No. 290 G., dated 25th August, 1886 [Paper No. 3].  
 From Under Secretary to Chief Commissioner, Central Provinces, No. 3980—233, dated 31st August, 1886 [Paper No. 4].  
 From Secretary to Chief Commissioner, Burma, No. 810—22 L., dated 31st August, 1886 [Paper No. 5].  
 From Chief Commissioner, Ajmere-Merwara, No. 1055—690-II, dated 14th September, 1886 [Paper No. 6].  
 From Secretary to Chief Commissioner, Coorg, No. 1670—3256, dated 14th September, 1886 [Paper No. 7].  
 From Chief Secretary to Government, Madras, No. 2546, dated 23rd September, 1886, and enclosures [Papers No. 8].  
 From Secretary to Government, North-Western Provinces and Oudh, No. 767—VII—328-10, dated 2nd October, 1886 [Paper No. 9].  
 From Acting Under Secretary to Government, Bombay, No. 5813, dated 11th October, 1886, and enclosures [Papers No. 10].  
 Endorsement by Acting Chief Secretary to Government, Madras, No. 2863, dated 23rd October, 1886, and enclosures [Papers No. 11].  
 From Chief Secretary to Government, Bengal, No. 3322 J., dated 19th November, 1886, and enclosures [Papers No. 12].

the Indian Companies Act, 1882, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. Having regard to the priority which it is proposed by the Indian Bankruptcy Bill to give in express terms to fiscal debts due from a bankrupt to the Crown, we deem it desirable to give priority in similar terms to like debts due to the Crown from a Company which is being wound up. This saving may not be absolutely necessary in the case of debts due to the Crown (L. R. 9 Ch. D. 469 and 5 Bom. H. C. R. 23); but it is proposed, as in the Bankruptcy Bill, to give to rates and taxes payable to local authorities the same priority as to Crown debts, and in the case of some at least of those rates and taxes an express declaration of their priority will be necessary.

3. The salaries of clerks and servants being paid monthly in this country, we consider it will be sufficient to give priority to those salaries for the same time, namely, two months, as priority is given to wages of labourers and workmen by the Companies Act, 1883 (46 & 47 Vic., c. 28). But we agree with the Bengal Chamber of Commerce, the Calcutta Trades Association and other authorities that in this country it is proper to give priority to the salary of a clerk or servant for a larger sum than in England, and we have proposed to raise to Rs. 1,000 the limit up to which the salary of a clerk or servant is to have priority.

As regards the priority to be given to the wages of labourers and workmen, we propose to follow the Companies Act, 1883, in limiting it to wages in respect of services rendered during the two months before the commencement of the winding up.

4. The publication ordered by the Council has been made as follows:—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India . . . . .	7th, 14th and 31st July, 1886.
Fort Saint George Gazette . . . . .	6th August, 1886.
Bombay Government Gazette . . . . .	22nd July, 1886.
Calcutta Gazette . . . . .	28th July, and 4th and 11th August, 1886.
North-Western Provinces and Oudh Government Gazette . . . . .	24th and 31st July, and 7th August, 1886.
Punjab Government Gazette . . . . .	22nd and 29th July, and 5th August, 1886.
Central Provinces Gazette . . . . .	24th and 31st July, and 7th August, 1886.
Burma Gazette . . . . .	7th, 14th and 21st August, 1886.
Assam Gazette . . . . .	7th, 14th and 28th August, 1886.
Coorg District Gazette . . . . .	1st September, 1886.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay . . . . .	Maráthi . . . . .	19th August, 1886.
	Gujaráthi . . . . .	19th August, 1886.
Bengal . . . . .	Bengali . . . . .	24th and 31st August, 1886.
	Hindi . . . . .	2nd, 14th, 21st and 28th September, 1886.
	Uriya . . . . .	2nd, 14th, 21st and 28th September, 1886.
North-Western Provinces and Oudh . . . . .	Urdu . . . . .	21st and 28th August, and 4th September, 1886.
Central Provinces . . . . .	Maráthi . . . . .	1st, 8th and 15th September, 1886.
Burma . . . . .	Burmese . . . . .	4th, 11th and 18th September, 1886.



# The Gazette of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of His Excellency the Governor General for making Laws and Regulations or published under Rule 22.

### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

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No. 3 of 1887.

#### THE INDIAN MARINE BILL, 1887.

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*The Indian Marine Bill, 1887.**(Chapter I.—Preliminary.—Sections 1-2.)**A Bill for the better administration of Her Majesty's Indian Marine Service.*47 & 48  
Vic., c. 38.34 & 25  
Vic., c. 87.

WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor General in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service:

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters as defined by the said Indian Marine Service Act; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, Her Majesty's Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title and commencement.

1. (1) This Act may be called the Indian Marine Act, 1887; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) "person subject to this Act" means a person who is employed or serves in, or belongs to, Her Majesty's Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act:

(2) "gazetted officer" means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,	Chief engineer,
First grade officer,	Engineer,
Second grade officer,	Assistant engineer, or
Third grade officer,	Clerk:

(3) "warrant officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,	Engine-driver, first class,
Apothecary,	Carpenter,
Assistant apothecary,	Hospital assistant, or
Assistant clerk,	General mess steward:

(4) "petty officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,	Tindal of lascars, first class,
Chief syrang, second class,	Tindal of lascars, second class,
Ship's steward,	Tindal of stokers, first class,
Engine-driver, second class,	Tindal of stokers, second class,
Cook on a salary of not less than fifty rupees per month,	Cassanb, first class,
General mess butler,	Cassanb, second class, or
Syrang of lascars, first class,	Cook on a salary of less than fifty rupees per month:
Syrang of lascars, second class,	

(5) "superior officer," used with reference to an officer of a rank mentioned in clause (2), clause (3) or clause (4) of this section, means an officer of a rank mentioned before his in any of those clauses; and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(6) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as respects any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer (if any) as the Governor General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer in regard to those persons:

(7) "Indian Marine Court" means an Indian Marine Court held under this Act:

(8) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or





*The Indian Marine Bill, 1887.**(Chapter II.—Offences and Punishments.—Sections 26-32.)*

person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer such punishment as the Court thinks fit to inflict according to the degree of the offence.

[29 & 30 Vic., c. 109, s. 43.] **26.** A person subject to this Act who is guilty of any act, disorder or neglect to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Offences against Public Justice.*

[29 & 30 Vic., c. 109, s. 51.] **27.** A person subject to this Act who does not use his utmost endeavours to detect, apprehend and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

[29 & 30 Vic., c. 109, s. 66.] **28.** A person subject to this Act who, being duly summoned or ordered to attend as a witness before a Criminal Court or an Indian Marine Court or an officer exercising jurisdiction under this Act, refuses or neglects to attend to give his evidence upon oath or affirmation, or prevaricates in his evidence or behaves with contempt to the Court or officer, shall be punished with imprisonment which may extend to three months in the case of such refusal, neglect or prevarication, and to one month in the case of such contempt.

[29 & 30 Vic., c. 109, s. 67.] **29.** A person subject to this Act who, when examined on oath or affirmation before a Criminal Court or an Indian Marine Court or an officer exercising jurisdiction under this Act, wilfully and corruptly gives false evidence, shall suffer penal servitude or imprisonment for a term which may extend to seven years.

*Offences punishable by Ordinary Law.*

[29 & 30 Vic., c. 109, s. 43.] **30.** (1) A person subject to this Act who is guilty of murder shall suffer death.

(2) If he is guilty of manslaughter he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

(3) If he is guilty of sodomy with man or beast he shall suffer penal servitude.

(4) If he is guilty of an indecent assault he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

(5) If he is guilty of robbery or theft he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

(6) If he is guilty of any other criminal offence which if committed in England would be punishable by the law of England he shall—

(a) be punished under this Act as for an act to the prejudice of good order and discipline not otherwise specified, or

(b) be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try him if the offence had been committed in England.

*Punishments.*

Schedule of punishments. **31.** (1) The following punishments may be inflicted under this Act:—

- (1) death;
  - (2) penal servitude;
  - (3) dismissal with disgrace from the Indian Marine Service;
  - (4) imprisonment;
  - (5) dismissal from the Indian Marine Service;
  - (6) loss of seniority as an officer for a specified time or otherwise;
  - (7) dismissal from the ship to which the offender belongs;
  - (8) severe reprimand, or reprimand;
  - (9) disrating a warrant or petty officer or any other person below that rank;
  - (10) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs.
- (2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to the infliction of punishments. **32.** The following regulations shall apply to the infliction of punishments:—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years. [29 & 30 Vic., c. 109, s. 53.]

(2) In the case of persons other than Europeans or Americans, transportation for life or for any less term, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude. [47 & 48 Vic., c. 38, s. 2.]

Provided that—

- (a) the term of a sentence of transportation or imprisonment passed under section 29 in substitution for a sentence of penal servitude shall not exceed seven years; and
- (b) the term of a sentence of transportation or imprisonment passed under section 30,

*The Indian Marine Bill, 1887.*

(Chapter II.—Offences and Punishments.—Sections 33-34.—Chapter III.—Jurisdiction and Powers.—Section 35.)

sub-section (6), clause (b), in substitution for a sentence of penal servitude shall not exceed the term of penal servitude awardable under the law of England.

30 Vic.,  
30, a. 53 (3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

30 Vic.,  
30, a. 53 (4) A sentence of dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity, and may also in any case be accompanied by a sentence of imprisonment.

30 Vic.,  
30, a. 53 (5) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

30 Vic.,  
30, a. 53 (6) A sentence of imprisonment passed whether under clause (2) or clause (5) of this section may be accompanied with a direction that the prisoner shall be kept to hard labour for all or any part of the term of imprisonment.

30 Vic.,  
30, a. 53 (7) The punishment of imprisonment, whether on boardship or on shore, shall involve the disrating of a warrant or petty officer, and shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

30 Vic.,  
30, a. 55.] 33. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 31.

30 Vic.,  
30, a. 54.] 34. No person, unless he is an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

## CHAPTER III.

## JURISDICTION AND POWERS.

35. Subject to the provisions of this Act and, as respects Criminal Courts, subject to the law relating to criminal procedure for the time being in force in British India, and the provisions of section 61 of this Act,

the Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under the sections of this Act mentioned in the first column of the following table as indicated in the third column of that table:—

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 5	Neglect of duty . . .	Indian Marine Courts.
Do. 6	Mutiny accompanied by violence.	Criminal Courts and Indian Marine Courts.
Do. 7	Mutiny not accompanied by violence.	Ditto.
Do. 8	Inciting to mutiny . . .	Ditto.
Do. 9	Mutinous assembly or uttering seditious words.	Ditto.
Do. 10	Concealing traitorous or mutinous practice, design or words.	Ditto.
Do. 11	Striking or using violence to superior officer.	Ditto.
Do. 12	Disobedience or using threatening language to superior officer.	Indian Marine Courts.
Do. 13	Desertion . . .	Criminal Courts and Indian Marine Courts.
Do. 14	Inducing any person to desert.	Ditto.
Do. 16	Breaking out of ship . . .	Indian Marine Courts.
Do. 16	Absence without leave . . .	Criminal Courts and Indian Marine Courts.
Do. 17	Drunkenness and uncleanness.	Ditto.
Do. 18	Cruelty or oppression by gazetted officer.	Ditto.
Do. 19	Suffering vessel to be lost or imperilled.	Indian Marine Courts.
Do. 20	Unlawful taking of goods on board.	Ditto.
Do. 21	Embezzling public stores	Criminal Courts and Indian Marine Courts.
Do. 22	Arson . . .	Ditto.
Do. 23	Making false documents	Indian Marine Courts.
Do. 24	Malingering, or misconduct in hospital.	Ditto.
Do. 25	Creating disturbance on account of complaints.	Ditto.
Do. 26	Offences to the prejudice of good order and discipline not otherwise specified.	Ditto.
Do. 27	Not assisting in apprehending offenders.	Criminal Courts and Indian Marine Courts.
Do. 28	Contempt of Court . . .	Ditto.
Do. 29	False evidence . . .	Ditto.
Do. 30	Offences punishable by ordinary law— (a) when the offence is treason, murder, manslaughter, treason-felony or rape; (b) in other cases . . .	Criminal Courts. [cf. Army Act, s. 41.] Criminal Courts and Indian Marine Courts.



*The Indian Marine Bill, 1887.**(Chapter III.—Jurisdiction and Powers.—Sections 36-43.)*

Power to pass sentences. 36. Subject as aforesaid—

- (a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and
- (b) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

[29 & 30 Vic.,  
c. 109, s.  
66.]

37. (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender.

[29 & 30 Vic.,  
c. 109, s.  
66 (2);  
47 & 48 Vic.,  
c. 39, s. 1.]

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any person not above the position of petty officer.

38. When under section 35 a Criminal Court and an Indian Marine Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director of Marine or, in prescribed cases, of the commanding officer to decide before what authority the proceedings shall be instituted:

Provided that when the offence is punishable under section 30 and a Criminal Court having jurisdiction is of opinion that the proceedings ought to be instituted before itself, it may by written notice require the Director of Marine or commanding officer to postpone proceedings pending a reference to the Governor General in Council, whose order as to the authority before which the proceedings are to be instituted shall be final.

39. Subject to the provisions of the Indian Marine Service Act, 1884, a person subject to this Act may be tried and punished in any place by a Criminal Court or an Indian Marine Court or a commanding officer for an offence punishable under Chapter II in the same manner as if the offence had been committed in that place.

47 & 48  
Vic., c. 38.

40. Where an offence punishable under Chapter II has been committed by any person while subject to this Act he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to

this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

41. When a person subject to this Act is accused of an offence in respect of which a Criminal Court would have jurisdiction over him otherwise than under the foregoing sections of this Act, the following rules shall apply:—

- (a) any person subject to this Act shall, on application made to him by the Court, assist in apprehending and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court to be proceeded against according to law:

Provided that if the facts constituting the offence also constitute an offence triable by an Indian Marine Court under this Act, and the commanding officer is of opinion that the accused should be tried by an Indian Marine Court or, when the offence is triable by the commanding officer, by him, he may refuse to comply with the requisition of the Criminal Court pending a reference to the Governor General in Council, whose order as to the authority before which the proceedings are to be instituted shall be final;

- (b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

42. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or a competent Indian Marine Court or, in exercise of the powers conferred by section 37, by his commanding officer.

43. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed officer may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

[Army Act,  
s. 46 (7).]

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1869.

*The Indian Marine Bill, 1887.**(Chapter III.—Jurisdiction and Powers.—Section 44.—Chapter IV.—Indian Marine Courts.—Sections 45-50.)*

**44.** The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

## CHAPTER IV.

## INDIAN MARINE COURTS.

*Constitution of the Court.*

**45.** (1) The following authorities shall have power to convene Indian Marine Courts:—

- (a) the Governor General in Council;
- (b) the Director of Marine;
- (c) the Deputy Director of Marine, in the absence of the Director of Marine;
- (d) an officer empowered in that behalf by warrant of the Governor General in Council:

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor General in Council.

(2) A commanding officer of a ship when in detached situations, and when immediate example is necessary, and, without detriment to the public service, reference cannot be made to superior authority, may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

**46.** (1) An Indian Marine Court shall consist of a president and not less than two or more than four other members being first grade officers as may be ordered by the convening authority:

Provided that an Indian Marine Court convened under section 45, sub-section (2), may be composed of the officer convening the same as president and the two graded officers next in seniority on the spot.

(2) The president of an Indian Marine Court for the trial of a commander shall be a commander, and of the prescribed seniority, and two at least of the other officers composing the Court shall be commanders.

(3) The president of an Indian Marine Court for the trial of any person below the grade of commander, except an Indian Marine Court convened under section 45, sub-section (2), shall be a commander.

(4) A person acting as prosecutor shall not sit on the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court after the commencement of the trial is reduced below three members it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

*Procedure at the Trial.*

**47.** An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

**48.** As soon as an Indian Marine Court is assembled the names of the members of the Court shall

be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority on the spot who is not on the Court, subject to the regulations contained in section 46, sub-sections (2), (3), (4) and (5):

Provided that where the Court is composed as in the proviso to section 46, sub-section (1), and no officer qualified under section 46 is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection was disallowed.

**49.** (1) Before an Indian Marine Court proceeds to try a prisoner an oath or affirmation shall be made by every member of the Court in the prescribed manner.

(2) An oath or affirmation shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter, before an Indian Marine Court.

**50.** When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction or capture of any vessel in the

*The Indian Marine Bill, 1887.**(Chapter IV.—Indian Marine Courts.—Sections 51-60.)*

Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court, and any of them, when upon his trial, may be called upon to give evidence on oath or affirmation touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

51. If by reason of the illness of the prisoner before the finding it is impossible to continue the trial an Indian Marine Court shall be dissolved.

52. Where an Indian Marine Court is dissolved under section 46, sub-section (7), or under section 51 before the finding, or, in the case of a finding of guilty, before the sentence, the proceedings are null and void, and the prisoner shall be tried before another Indian Marine Court on the same charge or charges.

[Army Act, s. 53 (5).] 53. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

[Army Act, s. 53 (5).] 54. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote:

Provided that if there is an equality of votes on the finding the decision shall be in favour of the accused.

[29 & 30 Vic. c. 109, s. 66.] 55. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

[29 & 30 Vic. c. 109, s. 66.] 56. When a person subject to this Act commits in presence of an Indian Marine Court an offence punishable under section 28, the Court, if it thinks fit, instead of reserving him for trial by another Court, may, by order under the hand of the president, sentence him to imprisonment with or without hard labour for a term which may extend to one month.

*Confirmation of Findings and Sentences.*

57. (1) A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed.

(2) The authority convening an Indian Marine Court, or an authority empowered to convene such a Court at the date of the submission of the finding and sentence thereof, shall have power to confirm the same, unless otherwise prescribed.

(3) The authority having power to confirm the finding and sentence of an Indian Marine Court may send back the finding and sentence, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

(4) Where the finding only is sent back for revision, the Court may revise the sentence also.

(5) The confirming officer may, in confirming the sentence of an Indian Marine Court,—

- (a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;
- (b) suspend for such time as seems expedient the execution of the sentence;
- (c) if the finding or sentence is informally expressed, vary the form thereof.

*Evidence.*

58. The Indian Evidence Act, 1872, subject to such modifications therein and to such additional rules of evidence as the Governor General in Council may, by notification in the Gazette of India, direct, shall apply to all proceedings before Indian Marine Courts.

*Preservation of Proceedings.*

59. (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

*Power to make Rules respecting Procedure.*

60. (1) The Governor General in Council may make rules to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

*The Indian Marine Bill, 1887.**(Chapter V.—Supplemental Criminal Provisions.—Sections 61-66.)*

(2) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure.

## CHAPTER V.

## SUPPLEMENTAL CRIMINAL PROVISIONS.

**Act of 1882.** *Procedure of Criminal Courts beyond British India.*

[Act XXI of 1879, s. 8.]

61. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

*Arrest.*

**Army Act, s. 8.]**

62. The following rules shall apply to persons subject to this Act when charged with offences under this Act:—

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, the senior if present, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority; and, as soon as may be, proceedings shall be taken for punishing the offender, or he shall be discharged from custody.

**Army Act, s. 8.]**

63. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with; but when he thinks the charge ought to be proceeded with he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

**Act V of 1889, Part III**

64. When a person subject to this Act, who is accused of an offence cognizable under this Act, is within the jurisdiction of any civil, political or police officer, that officer shall aid in the arrest of the person upon an application to that effect made by the commanding

officer of that person or any prescribed authority, and shall deliver that person when arrested into the prescribed custody:

Provided that, if the person is charged with an offence cognizable otherwise than under this Act, the officer aiding in the arrest may detain the person pending the orders of the Governor General in Council.

*Execution of Sentences of Indian Marine Courts and Commanding Officers.*

65. (1) Every term of imprisonment, whether original, mitigated or commuted, undergone in pursuance of the sentence of an Indian Marine Court or of a commanding officer shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced: [Act X of 1882, s. 397.]

Provided that when under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced otherwise than under section 32, sub-section (2), another term of imprisonment to which he has been similarly sentenced commences and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of his imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

66. (1) A person sentenced by an Indian Marine Court to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as practicable, be transferred to a prison in British India appointed in this behalf by the Governor General in Council, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed officer to the officer in charge of that prison.

(3) A person transferred to a prison under this section shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court:

Provided that—

(a) when he is a person sentenced to imprisonment by his commanding officer the commanding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged;

*The Indian Marine Bill, 1887.**(Chapter V.—Supplemental Criminal Provisions.—Sections 67-70.—Chapter VI.—Provisions of Civil Law.—Section 73.)*

(b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and shall again be transferred to the prison.

*Savings.*

[29 & 30 Vic., c. 109, s. 101.] **67.** Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

[29 & 30 Vic., c. 109, ss. 52 (ii) and 57.] **68.** Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—  
(a) to dismissal, loss of seniority, disrating or forfeiture; or  
(b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

*Amendment of Act.*

[Act V of 1869, Part III (d) X of 1882.] **69.** In the Code of Criminal Procedure, section 54, after the words "Army or Navy" the following shall be inserted, namely:—  
"or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service."

[29 & 30 Vic., c. 109, ss. 25 & 26.] **70.** After section 138 of the Indian Penal Code the following section shall be inserted, namely:—  
"138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen."

## CHAPTER VI.

## PROVISIONS OF CIVIL LAW.

*Exemption from Process.*

[Army Act, s. 144.] **71.** (1) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them, that is to say:—  
(a) on account of a criminal charge or conviction;  
(b) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.  
(2) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who

may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

**72.** The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in any proceeding against him or any person whom he may represent, by any Court of Civil Judicature. [Act V of 1869, Part II (b).]

*Property of Deceased Persons and Deserters.*

**73.** The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts:— [Act V of 1869, Arts. 176 to 179.]

(1) The commanding officer shall secure all the moveable property that is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the prescribed officer.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed officer thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made. [Act V of 1873, ss. 4 & 5.]

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from Her Majesty's Indian Marine Service, and has not subsequently surrendered or been apprehended.



## STATEMENT OF OBJECTS AND REASONS.

THE Indian Marine Service, as stated in the preamble to the Indian Marine Service Act, 1884 (47 & 48 Vic., c. 38), "is employed under the direction of the Governor General of India in Council for the transport of troops, the guarding of convict settlements, the suppression of piracy, the survey of coasts and harbours, the visiting of lighthouses, the relief of distressed or wrecked vessels, and other local objects, and is maintained out of the revenues of India."

The members of that service, as stated in the same preamble, are not subject either to the Naval Discipline Act, 1866, or to the Merchant Shipping Acts; and as some of them are persons whom the Governor General's Council was not empowered to bind by its enactments except when they might be within certain local limits, the special Act of Parliament just referred to was passed to enable the Governor General's Council to legislate for them.

2. The leading provisions of that Act are recited in the preamble to the Bill, and may be roughly described as empowering the Governor General's Council to pass an Act containing penal provisions similar to those of the Naval Discipline Act, which will be in force against the members of the Indian Marine Service as long as the vessels to which they belong are within Indian waters, that is to say, between the Cape of Good Hope on the west and the Straits of Magellan on the east.

3. Passing over the first chapter of the Bill, which contains definitions and other preliminary matter, it will be found that the second chapter, which deals with "Offences and Punishments," is made up almost altogether of provisions based on those of Parts I and III of the Naval Discipline Act. It should be explained that, having regard to the peculiar wording of the Indian Marine Service Act, it has been thought safest in adopting these provisions of the Naval Discipline Act to adhere very closely to their form; and the result is that it has been necessary to use terms and forms of expression which are not usually to be found in the Acts of the Governor General's Council.

4. It will be observed that the chapter contains no provisions corresponding to those of the Naval Discipline Act headed "Misconduct in the presence of the enemy" and "Communications with the enemy." The vessels of the Indian Marine Service are not likely to be in presence of an enemy except in conjunction with vessels of the Royal Navy, and then, under the sixth section of the Indian Marine Service Act, they could be placed under the command of the senior Naval Officer, and those serving on them brought under the Naval Discipline Act.

5. The section (30) which deals with "offences punishable by ordinary law" has, for the reason mentioned in paragraph 3, been drawn in strict conformity with section 45 of the Naval Discipline Act, that is to say, it makes those offences punishable under the law of England when they cannot properly be dealt with as "acts to the prejudice of good order and discipline not otherwise specified." This might seem to be likely to lead to difficulty; but the occasions for applying the law of England will be extremely rare. The vast majority of the persons to whom the Bill applies will be Native subjects of Her Majesty, who, wherever they may be beyond the limits of British India, are, under section 8 of Act XXI of 1879, amenable to the criminal law of British India, and they could accordingly be dealt with under that law in all cases in which the offence could not properly be dealt with as an act to the prejudice of good order and discipline.

6. The punishments which can be inflicted under the Bill (section 31) correspond with those which can be inflicted under the Naval Discipline Act, section 52, corporal punishment, however, being omitted.

7. In Chapter III, relating to jurisdiction and powers, the Indian legislature is free from the trammels of the Naval Discipline Act, and the provisions proposed, being new, must stand on their own merits.

The most striking feature of the chapter is that, instead of making all offences under the Bill triable by a special professional Court, as under the Army Act and Naval Discipline Act, it calls in the aid of the ordinary Criminal Courts, including (section 2, clause (8)) the Courts of officers of the political service in places beyond British India.

It is proposed (section 35) that certain offences should be triable by the Indian Marine Courts to be presently referred to, that others again should be triable by the ordinary Criminal Courts, and that as regards others again both classes of Courts should have concurrent jurisdiction.

8. Section 36 provides in effect that a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment, if such a sentence is within its ordinary powers; and that a Marine Court may pass any sentence authorised by the Bill except a sentence of death, penal servitude, transportation or imprisonment for a term exceeding two years.

9. Section 37 empowers a commanding officer, subject to regulations to be made by the Governor General in Council, to try in a summary manner offences committed by persons below the grade of gazetted officer and triable by a Marine Court, and, subject to any restrictions which the Governor General in Council may impose, to pass a sentence of three months' imprisonment on a person below the position of petty officer, and disrate any petty officer or person of inferior rank.

10. Section 38 provides that in cases in which the Criminal Court and the Marine Court have concurrent jurisdiction the Director of Marine, or in certain cases the commanding officer, may decide before which Court the prosecution is to take place, but that if the offence is one punishable by the ordinary law, and the Criminal Court is of opinion that the offence should be tried before itself, a reference shall be made to the Governor General in Council.

11. Section 41 provides for the delivering up to the Criminal Court of a person subject to the Act who is accused of an offence over which that Court would have jurisdiction apart from the Bill, as, for instance, when such a person is accused of an offence punishable by the ordinary law and committed in British India, or where a Native Indian subject is accused of a like offence committed anywhere. If, however, the facts constituting the offence also constitute an offence triable by a Marine Court, the commanding officer is empowered to require a reference to be made to the Governor General in Council before delivering up the accused.

12. Chapter IV deals with Marine Courts. It is based for the most part on provisions of the Naval Discipline Act, the Army Act and the Native Articles of War, details, however, being left to be provided for by rules framed under section 60. A Marine Court, except in detached situations, where an immediate example is necessary, must (section 46) consist of not less than three first grade officers, the president being a commander. The finding or sentence of the Court is not valid (section 57) except in so far as it may be confirmed by higher authority. Section 58 applies the Indian Evidence Act to Marine Courts subject to such modifications or additional rules of evidence as the Governor General in Council may direct.

13. Chapter V contains certain supplemental criminal provisions. The only one of them which appears to call for special notice is section 68, which provides that nothing in the Act shall affect any rules, regulations, conditions or customs of the service under which a person may be liable—

- (a) to dismissal, loss of seniority, disrating or forfeiture; or
- (b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

As regards (a) there appears to be no sufficient reason for treating the Indian Marine differently from any other branch of the public service. In cases where the penalties in question are clearly deserved and are sufficient, the superior executive authorities can safely impose them; while in cases which are doubtful, or in which more severe penalties are called for, they can resort to judicial proceedings under the Bill.

As regards (b) no legislative warrant seems to be required for withholding leave to go on shore, for stopping a man's allowance of spirits or subjecting him to extra watches or drill; and it seems preferable to leave such punishments to be imposed as a matter of discipline by mere executive authority than to confer, as has in some instances been done, a vague power to prescribe "minor punishments".

14. The provisions of Chapter VI, exempting persons subject to the Act from certain civil process and providing for the disposal of the property of deceased persons and deserters, are based on enactments contained in the Army Act or Native Articles of War; and the only one of them which appears to call for explanation is clause (6) of section 73, which, following precedents to be found in the Government Savings Banks Act, 1873, the Regimental Debts Act and elsewhere, admits of property of a deceased person which does not exceed one thousand rupees in value being delivered to a person appearing to be his representative without putting the estate to the expense of procuring probate, administration or other conclusive evidence of title. As is usual in such cases, the rights of third parties against the person to whom the property is so delivered are saved; and the persons delivering the property and the Government are indemnified.

*The 14th January, 1887.*

G. CHESNEY.

S. HARVEY JAMES,

*Offg. Secretary to the Government India.*



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of His Excellency the Governor General for making Laws and Regulations or published under Rule 22.

### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th February, 1887:—

NO. 4 OF 1887.

#### THE LOWER BURMA COURTS BILL, 1887.

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*The Lower Burma Courts Bill, 1887.**Chapter I.—Preliminary.—Sections 1 and 2.**(Chapter II.—The Chief Court.—Sections 3-7.)*

*A Bill to consolidate and amend the law relating to Courts in Lower Burma.*

WHEREAS it is expedient to consolidate and amend the law relating to Courts in Lower Burma; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Lower Burma Courts Act, 1887.

(2) Save in so far as this section, section 2, section 7, clause (c), section 24 and section 52, sub-section (1), apply by necessary implication to other parts of British India, and save also as provided by the Arakan Hills Civil Justice Regulation, 1874, the Arakan Hill District Laws Regulation, 1874, and the Arakan Hills Civil Justice Amendment Regulation, 1876, this Act extends to the territories for the time being comprised in Lower Burma; and

(3) It shall come into force on such date as the Governor General in Council, by notification in the Gazette of India, appoints.

2. (1) On and from the commencement of this Act the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column thereof.

(2) Any enactment or document referring to any of the enactments hereby repealed, or to any enactment repealed by any of those enactments, shall be construed as referring to this Act or to the corresponding portion thereof; and all forms, registers, books, accounts, statements and returns prescribed, rules, orders and appointments made, lists and tables published, limits fixed, directions given and powers conferred under any of the said enactments shall, so far as may be, be deemed to have been respectively prescribed, made, published, fixed, given and conferred after the commencement of this Act.

## CHAPTER II.

## THE CHIEF COURT.

3. On and from the commencement of this Act there shall be established for Lower Burma a Chief Court, which shall be called the Chief Court of Lower Burma.

4. The Chief Court shall consist of three or more Judges, who shall be appointed by the Governor General in Council and hold their offices during his pleasure. [Act XVIII. 1884, s. 4.]

5. (1) One of the Judges, being a barrister of not less than five years' standing, shall be appointed as Recorder, and one of the Judges as Judicial Commissioner. [New. cf. Act XVIII. 1884, s. 4.]

(2) The other Judge or each of the other Judges, as the case may be, shall be appointed as a Recorder or as a Judicial Commissioner, as the Governor General in Council sees fit.

(3) The substantive incumbents of the offices of the Recorder of Rangoon and the Judicial Commissioner of Lower Burma immediately before the commencement of this Act shall become Judges of the Chief Court, as a Recorder and a Judicial Commissioner, respectively, without further appointment for that purpose.

6. (1) The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges. [Act XVIII. 1884, s. 5.]

Provided that a Judge substantively appointed shall be deemed senior to an officiating Judge.

(2) If the offices of the Recorder of Rangoon and the Judicial Commissioner of Lower Burma are immediately before the commencement of this Act held by officiating incumbents and those incumbents are appointed to officiate as Judges of the Chief Court, they shall have rank and precedence as Judges of the Chief Court according to the seniority of their appointments as officiating Recorder and officiating Judicial Commissioner respectively.

7. The Chief Court shall be the highest Civil Court of appeal and the highest Court of criminal appeal and revision in and for Lower Burma, and shall— [Act I, 1868, s. 2 (1), and Act X, 1892, s. 4 (c).]

(a) have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; [Act XI, 1880, s. 6, and Act XVIII, 1884, s. 7.]

(b) be the principal Civil Court of original jurisdiction and the Court of Session for the Town of Rangoon; and [Act XVII, 1875, ss. 48 and 60.]

(c) have within the towns of Rangoon, Maulmain, Akyab and Bassein such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable by a Court for the Relief of Insolvent Debtors under the Statute 11 and 12 Victoria, chapter 21 (an Act to consolidate and amend the law relating to Insolvent Debtors in India). [Act XVII, 1875, s. 66. Cf. Indian Bankruptcy Bill, 1886.]



*The Lower Burma Courts Bill, 1887.**(Chapter II.—The Chief Court.—Sections 8-14.)*

8. (1) The original criminal jurisdiction of the Chief Court as a Court having power to try European British subjects committed to it for trial, and the jurisdiction of the Court as the Court of Session for the Town of Rangoon, shall be exercised by a single Judge of the Court.

[Act XVIII,  
1884, s. 8,  
sub-section  
(1).]

(2) Subject to sub-section (1), and except also as otherwise provided by this Act or by any other enactment for the time being in force, the Chief Court may, with the sanction of the Local Government and the approval of the Governor General in Council, make rules to provide in such manner as it thinks fit, for the exercise by one or more of its Judges of any of its powers.

(3) Where the original jurisdiction of the Chief Court, or the jurisdiction of that Court with respect to proceedings in any Court having jurisdiction within the Town of Rangoon, is exercisable by a single Judge, it shall ordinarily be exercised by a Judge who is a Recorder.

(4) Where the appellate or revisional jurisdiction of the Chief Court with respect to Courts having jurisdiction beyond the limits of the Town of Rangoon, or the power to transfer proceedings pending in any of those Courts, or any other jurisdiction or power with respect to those Courts, is exercisable by a single Judge, it shall ordinarily be exercised by a Judge who is a Judicial Commissioner.

[Act XVIII,  
1884, s. 8,  
sub-sections  
(2) & (3).]

9. (1) When the Chief Court consists of more than three Judges, it may make rules declaring what number of Judges, not being less than three, shall constitute a full bench of the Court, and may by these rules prescribe the mode of determining which Judges shall sit as a full bench when a full bench sitting becomes necessary.

(2) Subject to the provisions of sub-section (1), the senior Judge of the Court may determine which Judge in each case shall sit alone, and which Judges of the Court shall constitute any bench.

[Act XVIII,  
1884, s. 11.]

10. Any single Judge of the Chief Court, and any bench of Judges of that Court not being a full bench, may in any case refer for the decision of a full bench any question of law or custom having the force of law, or of the construction of any document, or of the admissibility of any evidence, arising before the Judge or bench, and shall dispose of the case in accordance with the decision of the full bench on the question.

[Letters Patent of High Court of Judicature at Fort William, s. 26; and Act X, 1882, s. 434.]

11. When in any case any such question as is referred to in the last foregoing section has been decided, without a reference under that section, by a Judge of the Chief Court exercising the original criminal jurisdiction of the Court as a Court having power to try European British subjects committed to it for trial, or the

jurisdiction of the Court as the Court of Session for the Town of Rangoon, the Chief Court may, on its being certified by the Government Advocate that in his opinion the decision is erroneous or should be further considered, review the case or such part of it as may be necessary and finally determine the question, and may thereupon alter the judgment, order or sentence passed by the Judge and pass such judgment, order or sentence as it thinks right.

12. Notwithstanding anything in the Code of Criminal Procedure, 1882, a judgment, order or sentence passed by a Judge of the Chief Court in exercise of the jurisdiction of the Court as the Court of Session for the Town of Rangoon shall not be subject to appeal to or confirmation by the Chief Court, or, save as provided by the last foregoing section, to revision by that Court.

13. Except as otherwise provided by any enactment for the time being in force, an appeal from any decree or order made by the Chief Court—

(a) in exercise of its original jurisdiction as the principal Civil Court of original jurisdiction for the Town of Rangoon, or

(b) in exercise of its original jurisdiction with respect to insolvent debtors and their creditors, or

(c) in exercise of its original jurisdiction in cases withdrawn from other Courts under section 25 of the Code of Civil Procedure, or

(d) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section,

shall lie in the cases and in the manner following, that is to say:—

(i) if the decree or order is made by a single Judge, the appeal shall lie either to a bench consisting of two other Judges, or to a full bench, as the Court may by general rule or special order direct;

(ii) if the decree or order is made by a bench of Judges not being a full bench, and the Judges differ in opinion, the appeal shall lie to a full bench.

14. Except as otherwise provided by any enactment for the time being in force,—

(i) when there is a difference of opinion among the Judges composing any bench of the Chief Court, the decision shall be in accordance with the opinion of the majority of those Judges;

[Act XVII,  
1884, s. 10  
et. Act X,  
1882, s. 429  
and Act X,  
1882, s. 50]

*The Lower Burma Courts Bill, 1887.**(Chapter II.—The Chief Court.—Sections 15-20.)*

(ii) if there is no such majority, then—

(a) if the bench is a full bench, or is exercising original civil jurisdiction, the decision shall be in accordance with the opinion of the senior Judge on the bench;

(b) in other cases, the bench before which the difference has arisen shall refer it to a full bench, and shall dispose of the case in accordance with the decision of the full bench.

**15.** The provisions of Chapter XXIII of the Procedure in trial of Code of Criminal Procedure, 1882, with respect to trials before High Courts shall apply to trials before the Chief Court in the exercise of its power to try, as a Court of original jurisdiction, European British subjects committed to it for trial.

**16.** (1) The Chief Court, when sitting as a Court of civil judicature, shall take evidence and record judgments and orders in the manner required by the Code of Civil Procedure, unless it has, with the previous sanction of the Governor General in Council, made rules for regulating these matters.

(2) If the Chief Court has so made rules for regulating these matters, the Governor General in Council may declare that any of the provisions of the Code of Civil Procedure with respect thereto shall not apply to the Chief Court.

(3) So much of section 579 of that Code as requires the decree to contain the memorandum of appeal and to be signed and dated by the Judge or Judges who passed it shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

**17.** (1) In any civil case the Chief Court, whether it is exercising its original or its appellate jurisdiction, may, if it thinks fit, summon to its assistance, in such manner as it may by rule direct, two competent assessors.

(2) The assessors shall attend and assist accordingly, and shall receive such fees for their attendance as the Court by rule prescribes.

(3) The fees shall be paid by such of the parties as the Court in each case may direct.

**18.** (1) Subject to any rules and restrictions which may be prescribed by the Governor General in Council, the Chief Court may appoint a Registrar and Deputy Registrar, and such other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or by any other enactment for the time being in force.

(2) The appointment of the Registrar and of the Deputy Registrar shall be subject to the sanction of the Local Government.

(3) The officers appointed under this section shall exercise such powers and discharge such duties as the Chief Court may direct.

(4) Any such officer may be suspended or dismissed from his office by order of the Chief Court:

Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

**19.** The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Chief Court.

**20.** (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Chief Court may, with the previous sanction of the Local Government, make rules consistent with this Act and any other enactment for the time being in force—

(a) providing for the translation of any papers filed in the Chief Court and copying or printing any such papers or translations, and requiring from the persons at whose instance or on whose behalf the papers were filed payment of the expenses thereby incurred;

(b) declaring what persons shall be permitted to practise as petition-writers in the Courts of Lower Burma, and regulating the conduct of persons so practising;

(c) prescribing forms for seals to be used by such of those Courts as are not Provincial Courts of Small Causes;

(d) regulating the procedure in cases where any person is entitled to inspect a record of any Court, or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(e) conferring and imposing such powers and duties as it thinks fit on the ministerial officers of such of the Courts subject to its superintendence as are not Provincial Courts of Small Causes, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed;

(f) prescribing forms to be used in the Courts subject to its superintendence for such proceedings, books, entries, statistics and accounts as it thinks necessary;

(g) providing for the inspection of those Courts and the supervision of the working thereof; and

(h) regulating all such matters as it may think fit, with a view to promoting the efficiency

*The Lower Burma Courts Bill, 1887.**(Chapter II.—The Chief Court.—Sections 21-24.)**(Chapter III.—The Subordinate Civil Courts.—Sections 25-29.)*

ency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule under clause (a) shall not take effect until it has been confirmed by the Governor General in Council.

(3) Whoever breaks any rule under clause (b) shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause (h) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary which may be or become due to the officers fined.

(5) A rule under any clause of sub-section (1) shall not take effect until it has been published in the Burma Gazette.

[Act XVI, 1885, s. 19, sub-section (4), cf. Act XVIII, 1884, s. 37.] **21.** The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall compile, in such form and manner as the Local Government may deem proper, with any requisitions which that Government may make for records of, or papers belonging to, the Chief Court or any Court subordinate thereto, or for certified copies of, or extracts from, those records or papers, or for returns, statements or reports.

[Act XVII, 1875, s. 88.] **22.** Persons entitled immediately before the commencement of this Act to appear, plead or act in the Court of the Recorder of Rangoon or in the Court of the Judicial Commissioner of Lower Burma shall be entitled to appear, plead or act, as the case may be, in the Chief Court.

[Act XVII, 1875, s. 47.] **23.** (1) The present local limits of the ordinary original civil jurisdiction of the Recorder of Rangoon shall be the limits of the Town of Rangoon for the purposes of this Act.

(2) But the Local Government may, with the previous sanction of the Governor General in Council, vary those limits, and may, without such sanction, prescribe the limits of the towns of Maulmain, Akyab and Bassein for the purposes of this Act.

**24.** In the enactments mentioned in the second schedule, for the words specified in the third column of that schedule there shall be substituted the words specified in the fourth column thereof.

## CHAPTER III.

## THE SUBORDINATE CIVIL COURTS.

*Classes of Courts.*

**25.** Besides the Chief Court, the Courts of [Act XVIII, 1884, s. 17.] Small Causes established under the Provincial Small Cause Courts Act, 1887, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

- (a) the Divisional Court;
- (b) the Court of the District Judge;
- (c) the Subdivisional Court;
- (d) the Township Court.

*Territorial Divisions.*

**26.** (1) For the purposes of this Act the Local Government shall divide the [Act XVIII, 1884, s. 18.] Civil divisions, districts, subdivisions and townships into such civil divisions, and each civil division into such civil districts, as may be approved by the Governor General in Council, and each civil district into such civil subdivisions, and each civil subdivision into such civil townships, as the Local Government thinks fit.

(2) The Local Government may, with the previous sanction of the Governor General in Council, alter the limits or the number of these divisions and districts, and, of its own authority, the limits or the number of these subdivisions and townships.

*Divisional and District Courts.*

**27.** The Local Government shall establish a [Act XVIII, 1884, ss. 19 and 20.] Divisional Court for each civil division, and a Court of a District Judge for each civil district, and shall appoint a Judge of each such Court:

Provided that the same person may, if the Local Government thinks fit, be appointed to be Judge of the Divisional Courts of two or more civil divisions or to be District Judge of two or more civil districts.

**28.** Except as otherwise provided by any enactment for the time being in force, the Divisional Court and the Court of the District Judge shall have jurisdiction in original civil suits without limit as regards the value. [Act XVIII, 1884, s. 22.]

**29.** Except as otherwise provided by any enactment for the time being in force, the Court of the District Judge to be District Court. [Act XVIII, 1884, s. 23.]

*The Lower Burma Courts Bill, 1887.**(Chapter III.—The Subordinate Civil Courts.—Sections 30-37.)*

trict Judge shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the district:

Provided that—

of 1869.

(a) for the purposes of the Indian Divorce Act the Divisional Court shall be deemed to be the District Court for all districts comprised in the division; and

(b) the Local Government may, with the previous sanction of the Governor General in Council, direct that the Divisional Court shall for any other purpose be deemed to be the District Court or principal Civil Court of original jurisdiction for any district comprised in the division.

*Subdivisional and Township Courts.*

30. The Local Government shall establish a Subdivisional Court for each civil subdivision, and a Township Court for each civil township, and shall appoint a Judge of each such Court, to be called, respectively, Subdivisional Judge and Township Judge.

Of Act VIII, 1884, s. 20.]

Provided that the same person may, if the Local Government thinks fit, be appointed to be Judge of the Subdivisional Courts of two or more civil subdivisions, or to be Judge of the Township Courts of two or more civil townships.

Act XVIII, 1884, s. 26.]

31. (1) The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a Subdivisional Judge or Township Judge shall be determined by the Local Government, either by including him in a class or grade, or otherwise, as the Local Government thinks fit.

(2) The jurisdiction in the case of a Subdivisional Judge shall not extend to suits of value exceeding five thousand rupees, or in the case of a Township Judge to suits of value exceeding one thousand rupees.

*Small Cause Jurisdiction.*

Act XVII, 1875, s. 12 and 14: Act VIII, 1884, s. 20: and Act XXI, 1885, s. 6.]

32. (1) The Local Government may confer, within such local limits as it thinks fit, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, upon the Judge of any of the following Courts for the trial of suits cognizable by a Court of Small Causes under that Act up to

such value, not exceeding that specified against those Courts, as it thinks fit:—

Court.	Value.
	Rs.
Court of the District Judge of Maulmain	1,000
Court of any other District Judge, or Subdivisional Court or Township Court.	500

(2) The Local Government may withdraw any jurisdiction so conferred.

*Suspension and Removal.*

33. Any Judge of a Divisional Court or any District Judge, Subdivisional Judge or Township Judge may be suspended or removed from office by the Local Government. [Act XVII, 1875, s. 39, as amended by Act X, 1884, s. 10.]

*Administrative Control.*

34. (1) Subject to the general superintendence and control of the Chief Court, the Divisional Court shall control all other Civil Courts in the division. [Act XVIII, 1884, s. 33.]

(2) Subject as aforesaid and to the control of the Divisional Court, the Court of the District Judge shall control all other Civil Courts in the district.

35. (1) The Divisional Court may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. [Act XVIII, 1884, s. 34.]

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

36. Notwithstanding anything contained in the Code of Civil Procedure, the Divisional Court and the Court of the District Judge may, by written order, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit. [Act XVIII, 1884, s. 35.]

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

37. (1) The ministerial officers of the Divisional Court and of the Court of the District Judge shall be appointed, and may be suspended or dismissed, by the Judges of those Courts respectively. [Act XVIII, 1884, s. 36.]

*The Lower Burma Courts Bill, 1887.*

(Chapter III.—The Subordinate Civil Courts.—Sections 38-39. Chapter IV.—Appellate Jurisdiction in Civil Cases.—Sections 40-42.) Chapter V.—Supplemental Provisions.—Sections 43-44.)

(2) The ministerial officers of Subdivisional Courts and Township Courts shall be appointed, and may be suspended or dismissed, by the Court of the District Judge.

(3) An appointment under this section shall be subject to such rules as the Local Government prescribes, and, in dealing with any matter under this section, the Court of the District Judge shall act subject to the control of the Divisional Court.

38. The Local Government, with the previous sanction of the Governor General in Council, may, notwithstanding anything in the Court-fees Act, 1870,

make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and rules so made may be declared by the Local Government to be in supersession of all or any rules made under sections 22 and 23 of that Act.

39. The District Judge may, with the previous sanction of the Local Government, delegate to any Subdivisional Judge in the district the powers conferred on the Court of the District Judge by sections 34, 36 and 37 of this Act and section 25 of the Code of Civil Procedure, to be exercised by the Subdivisional Judge in any specified portion of the district subject to the control of the Court of the District Judge.

## CHAPTER IV.

## APPELLATE JURISDICTION IN CIVIL CASES.

40. (1) Save as otherwise provided by the Code of Civil Procedure or by any other enactment for the time being in force, an appeal from a decree or order of a Township Court, or from an original decree or order of a Subdivisional Court, shall lie to the Court of the District Judge.

(2) Save as aforesaid, an appeal from an original decree or order of a Court of a District Judge, other than the Court of the District Judge of Maulmain, shall lie to the Divisional Court.

(3) Save as aforesaid, an appeal from an original decree or order of a Divisional Court or of the Court of the District Judge of Maulmain shall lie to the Chief Court.

41. (1) The Local Government may confer on a Subdivisional Judge the powers of a Judge of a District Court for the purpose of hearing appeals from Township Courts in any local area, and may withdraw those powers.

(2) A Subdivisional Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

42. The period of limitation for an appeal to a Divisional Court shall be sixty days from the date of the decree appealed against, and shall be computed in accordance with the provisions of the Indian Limitation Act, 1877.

## CHAPTER V.

## SUPPLEMENTAL PROVISIONS.

43. (1) The Local Government may, by order notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested in the Chief Court within the towns of Maulmain, Akyab and Bassein by clause (c) of section 7 shall be vested, as regards each or any of those towns, in the Court of the District Judge exercising jurisdiction in the town.

(2) While any such order is in force, that clause and clause (d) of section 6 of the Code of Civil Procedure shall, with respect to any town to which the order applies, have effect as if they referred to the Court of the District Judge in which the jurisdiction is so vested instead of to the Chief Court, and all cases pending at the date of the order shall be disposed of accordingly.

(3) Provided that nothing in this section shall prevent the Chief Court from entertaining and disposing of in that Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of the importance of the case or otherwise, may, in the opinion of the Court, be more conveniently so disposed of.

(4) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (1) as to all or any of the towns to which the order applies, but not so as to affect any proceedings pending at the date of the cancelling order.

44. (1) When the business pending before the Judge of any Court subordinate to the Chief Court appears to the Local Government to require the aid of an additional Judge for its speedy disposal, that Government may of its own authority if the Judge is a Township Judge or Subdivisional Judge, and with the previous sanction of the Governor General in Council in any other case, appoint an additional Judge and invest him with all or any of the powers of the Judge of the Court with respect to any particular class or classes of cases or with respect to cases generally.





*The Lower Burma Courts Bill, 1887.**(The First Schedule—Enactments repealed. The Second Schedule—Modification of certain Enactments.)*

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

*(See section 2.)*

Number and year.	Title of Enactment.	Extent of repeal.
1	2	3
Act IV of 1869	Indian Divorce Act . . .	In section 3, clause (2), the words "in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab; in the Tenasserim Provinces—the Recorder at Maulmain".
Act XV of 1869	Prisoners' Testimony Act . . .	The third paragraph of section 7 and the second paragraph of section 8.
Act X of 1873	Indian Oaths Act . . .	The <i>Explanation</i> to section 7.
Act XIII of 1874	European British Minors Act . . .	In the form of <i>Petition for Appointment of Guardian</i> in the schedule, the words "In the Court of the Recorder of Rangoon, or".
Act XVII of 1875	Burma Courts Act . . .	So much as has not been repealed.
Act III of 1879	Destruction of Records . . .	The second paragraph of section 2.
Act XI of 1880	Burma Courts Act . . .	The whole.
Act VII of 1882	Powers of Attorney Act . . .	Clause (f) of section 4.
Act X of 1882	Code of Criminal Procedure . . .	(1) The second paragraph of section 185; and (2) in section 487, the words "the Recorder of Rangoon".
Act XIV of 1882	Code of Civil Procedure . . .	(1) In the penultimate paragraph of section 287 the words "As regards his own Court and the Court of Small Causes at Rangoon, the Recorder of Rangoon shall be deemed to be a High Court within the meaning of this paragraph"; (2) in section 386, the words "or the Court of the Recorder of Rangoon"; and (3) section 614.
Act V of 1883	Indian Merchant Shipping Act . . .	Sub-section (2) of section 15.
Act VI of 1884	Inland Steam-vessels Act . . .	Sub-section (2) of section 39.
Act X of 1884	Burma Courts Act . . .	The whole.
Act XIV of 1885	Burma Courts Act . . .	The whole.

## THE SECOND SCHEDULE.

## MODIFICATION OF CERTAIN ENACTMENTS.

*(See section 24.)*

Number and year.	Title of Enactment.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
Act IV of 1869	Indian Divorce Act.	In section 3, clause (1), the words "in British Burma—the High Court of Judicature at Fort William in Bengal".	The words "in Lower Burma—the Chief Court of Lower Burma".

*The Lower Burma Courts Bill, 1887.**(The Second Schedule. — Modification of certain Enactments.)*

## SECOND SCHEDULE—continued.

Number and year.	Title of Enactment.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
Act XIII of 1874	European British Minors Act.	(1) In section 2, the words "Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner":  (2) In section 8, the words "Deputy Commissioners", in each place where they occur, and the words "Judicial Commissioner".	(1) The words "Chief Court of Lower Burma, and, elsewhere, the Court of the District Judge":  (2) The words "District Judges", and the words "Chief Court of Lower Burma", respectively.
Act II of 1877	Probate	The words "Court of the Recorder of Rangoon".	The words "Chief Court of Lower Burma".
Act V of 1880	Burma Boundaries Act.	(1) In section 19, the words "Judicial Commissioner, or, when the land comprised in the order is situated within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, to such Recorder":  (2) In section 21, the words "the Judicial Commissioner and the Recorder of Rangoon".	(1) The words "Chief Court":  (2) The words "and the Chief Court".
Act V of 1881	Probate and Administration Act.	In section 59, the words "Court of the Recorder of Rangoon".	The words "Chief Court of Lower Burma".
Act X of 1882	Code of Criminal Procedure.	(1) In section 4, clause (i), the words "Recorder of Rangoon":  (2) In section 25, the words "the Judges of the High Courts and the Recorder of Rangoon".	(1) The words "Chief Court of Lower Burma":  (2) The words "and the Judges of the High Courts".
Act XIV of 1882	Code of Civil Procedure.	(1) In section 6, clause (d), the words "Recorder of Rangoon sitting as an Insolvent Court":  (2) In section 539, clause (b), the words "Court of the Recorder of Rangoon".	(1) The words "Chief Court of Lower Burma sitting as an Insolvent Court under the Statute 11 & 12 Victoria, chapter 21":  (2) The words "Chief Court of Lower Burma".
Regulation VIII of 1874.	Arakan Hills Civil Justice Regulation.	In section 76, the words "Judicial Commissioner of British Burma" and the words "Judicial Commissioner shall".	The words "Chief Court of Lower Burma" and the words "Chief Court shall", respectively.
Regulation IX of 1874.	Arakan Hill District Laws Regulation.	In section 4, the words from and inclusive of "The functions of the High Court under the Code of Criminal Procedure" down to and inclusive of "the Judicial Commissioner of British Burma".	The words "The functions of the High Court in criminal cases shall be discharged by the Chief Court of Lower Burma".
Regulation VII of 1886.	Upper Burma Criminal Justice Regulation.	In section I, sub-section (1), of the schedule, the words "Recorder of Rangoon" in both places where these words occur.	The words "Chief Court of Lower Burma".

## STATEMENT OF OBJECTS AND REASONS.

The defective constitution of the Special Court, the increase of business in the Court of the Recorder of Rangoon, and the complaints which have been made respecting the finality of the decrees and orders of the Recorder in some cases, and respecting the delay and expense involved in appeals to the High Court at Calcutta in other cases, having rendered necessary a revision of the existing arrangements for the administration of justice in Lower Burma, the Government of India has decided, with the sanction of the Secretary of State in Council, to constitute at Rangoon a Chief Court on the model, so far as practicable, of the Chief Court at Lahore.

The main object of this Bill is to give effect to that decision.

2. It is proposed by the Bill to abolish the Court of the Recorder, the Court of the Judicial Commissioner and the Special Court, and to establish in their place a Chief Court which will be for Lower Burma the Court of ultimate resort in India.

The Chief Court is to consist of three or more Judges, of whom one at least must be a barrister of five years' standing. That Judge will be styled Recorder, and one of the other Judges will be styled Judicial Commissioner. The other Judge or each of the other Judges, as the case may be, is to be appointed as a Recorder or as a Judicial Commissioner, as the Governor General in Council sees fit. The Recorder or Recorders will ordinarily exercise the original jurisdiction of the Court and such other jurisdiction as has reference to the Town of Rangoon, while the Judicial Commissioner or Judicial Commissioners will ordinarily exercise the appellate and revisional jurisdiction of the Court in reference to the Courts subordinate to it beyond the limits of the Town of Rangoon, and discharge with respect to those Courts the functions of superintendence which are vested in the Chief Court.

3. The other portions of the Bill which seem to call for remark are the following:—

(1) *Section 7.*—It will be observed that this section, which constitutes the Chief Court the High Court for Lower Burma, makes no reference to the admiralty jurisdiction conferred on the Court of the Recorder by section 65 of the Burma Courts Act, 1875. The admiralty jurisdiction which can be conferred by the Governor General in Council is very limited, and a preferable course to continuing by an Act of the Indian Legislature such admiralty jurisdiction as is now vested in the Court of the Recorder will, in the opinion of the Government of India, be to wait for the passing of a Colonial Admiralty Courts Bill, which is about to be introduced into Parliament, and under which the Chief Court of Lower Burma will be constituted a Colonial Admiralty Court with full jurisdiction in admiralty matters.

The Chief Court will be, as the Court of the Recorder is, the Court of Session for the Town of Rangoon, and under section 12 of the Bill the orders passed by it as a Court of Session will, subject to such review as is provided for in section 11, be final.

The existing jurisdiction of the Court of the Recorder with respect to insolvent debtors is continued. It will be superseded by the Indian Bankruptcy Bill when that measure becomes law.

(2) *Section 14.*—The cases to which this section is designed to apply are cases for which provision is not made by section 378, 429 or 439 of the Code of Criminal Procedure, or section 575 of the Code of Civil Procedure. Such are cases coming before the Court in the exercise of its original or revisional civil jurisdiction and references under section 617 of the Code of Civil Procedure.

(3) *Section 22.*—All advocates entitled to appear, plead or act in the Special Court are to be entitled to appear, plead or act, as the case may be, in the Chief Court.

The intention of the Local Government to extend to Lower Burma parts of the Legal Practitioners Act, 1879, as amended by Act IX of 1884, renders it unnecessary to re-produce the provisions of the Burma Courts Act, 1875, respecting the licensing and fees of advocates.

(4) *Chapters III and IV.*—Concurrently with the constitution of the Chief Court, it is proposed to re-organise the subordinate Courts and to allow second appeals from decrees and orders passed by lower appellate Courts to be governed by the Code of Civil Procedure instead of by the special rules prescribed in the Burma Courts Act, 1875.

The 11th February, 1887.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, MAY 28, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

### GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th May, 1887:

NO. 5 OF 1887.

*A Bill to amend the Indian Stamp Act, 1879.*

WHEREAS it is expedient to amend certain provisions of the Indian Stamp Act, 1879, relating to policies of insurance;

It is hereby enacted as follows:

1. For clause (15) of section 3 of that Act the Amendment of definition of "policy of insurance" following shall be substituted, namely:

"(15) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event, and it includes any writing evidencing the renewal of any such instrument for the purpose of keeping the engagement in force:

"It includes a life-policy."

2. For article 49 of the first schedule to that Act the following shall be substituted, namely:

New article substituted for article 49 of Schedule 1.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.	
	If drawn singly.	If drawn in duplicate, for each part.
	Rs. A. P.	Rs. A. P.
(a) In the case of sea-insurance—		
When the amount Rs. insured does not exceed . . . 1,000	0 4 0	0 2 0
And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000	0 4 0	0 2 0
(b) In the case of fire-insurance—		
i. In respect of an original policy for a month or any shorter term—		
When the amount Rs. insured does not exceed . . . 1,000	0 2 0	0 1 0
And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000	0 2 0	0 1 0
ii. In respect of an original policy for more than one month but not more than three months—		
When the amount Rs. insured does not exceed . . . 1,000	0 3 0	0 2 0

#### 49. POLICY OF INSURANCE.

See Exemption, Schedule II [No. 14 (a)].



DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.	
	If drawn singly.	If drawn in duplicate, for each part.
	Rs. A. P.	Rs. A. P.
And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000	0 3 0	0 3 0
iii. In respect of an original policy for more than three months but not more than six months—		
When the amount insured does not exceed . . . 1,000	0 4 0	0 3 0
And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000	0 4 0	0 3 0
iv. In respect of an original policy for a year or any longer term—		
When the amount insured does not exceed . . . 1,000	0 6 0	0 3 0
And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000	0 6 0	0 3 0
v. In respect of renewing, for the purpose of keeping in force, a policy granted for any shorter term than one year . . . . .		
	The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends:	
	Provided that duty shall not be payable in respect of the renewal when the duty already paid in respect of the original policy, or in respect of the original policy and previous renewal thereof, is equal to or exceeds the duty which would be payable in respect of an original policy for the amount aforesaid for a year, and that, where the duty payable in respect of the renewal would, when added to the duty already paid in respect of the original policy, or in respect of the original policy and previous renewal thereof, exceed the duty payable in respect of an original policy for the amount aforesaid for a year, the duty payable in respect of the renewal shall not exceed the difference between the duty already paid and the duty payable in respect of an original policy for the amount aforesaid for a year.	
	If drawn singly.	If drawn in duplicate, for each part.
	Rs. A. P.	Rs. A. P.
(c) In the case of any other insurance—		
When the amount insured does not exceed . . . 1,000	0 6 0	0 3 0
And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000	0 6 0	0 3 0

49. POLICY OF INSURANCE—*conold.*

## STATEMENT OF OBJECTS AND REASONS.

IN the Resolution of the Department of Finance and Commerce, No. 1046, dated the 5th March, 1886, published in the *Gazette of India* of 6th March, 1886, opinion was invited on certain proposals of the Government of Bengal for the reduction of the stamp-duty payable on policies of fire-insurance for short terms.

Those proposals having been generally accepted as fair and equitable, this Bill has been prepared for the purpose of giving effect to them.

2. One Insurance Company, while recommending the reduction of stamp-duty on annual fire-policies, proposes to solve the difficulty of levying duty on renewals of fire-policies for short terms by prohibiting such renewals altogether, and asserts that this course would be productive of no inconvenience to the public, and of no appreciable inconvenience to Insurance Companies. The Government of India is not prepared to adopt this proposal unless it is assured by the almost unanimous opinion of those engaged in fire-insurance business that the prohibition of renewals would not lead to inconvenience. If such an assurance is forthcoming, it will be considered by the Select Committee to which this Bill is to be referred.

3. It is proposed so to amend the definition of "policy of insurance" as to make section 65 of the Indian Stamp Act, 1879, clearly applicable as well to contracts of renewal or continuance of insurance as to original policies.

4. Insurance Companies are invited to state, in their opinions on the Bill, the mode which will be most convenient to them of paying stamp-duty on renewals of policies of insurance.

*The 25th May, 1887.*

A. COLVIN.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 11, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

### GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th June, 1887:

NO. 6 OF 1887.

#### *A Bill for the Protection of Game.*

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of game;

And whereas it is expedient that Local Governments and cantonment-authorities as well as municipal authorities should be empowered to make such rules;

It is hereby enacted as follows:—

1. (1) This Act may be called the Game Protection Act, 1887.

Title, extent and commencement.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Definitions. 2. In this Act—

(1) "municipal authority" means the commissioners, committee, board, council or person having authority over a municipality under any enactment for the time being in force:

(2) "cantonment-authority" means a cantonment-committee or, in the case of a cantonment for which such a committee has not been consti-

tuted, the commanding officer of the cantonment: and

(3) "authority" means Local Government, municipal authority or cantonment-authority, as the case may be.

3. (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment-authority of any municipality or cantonment, with the previous sanction of the Local Government, may from time to time make rules—

(a) defining the word "game" for the purposes of this Act in its application to the municipality or cantonment;

(b) defining for those purposes the breeding season of any kind of game; and

(c) prohibiting, absolutely or subject to conditions, the possession or sale within the municipality or cantonment of any kind of game during its breeding season, or the importation into the municipality or cantonment of the fur or plumage of any kind of game during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend to five rupees for every head of game in respect of which the breach of the rule has been committed. [1 & 2 Wm. IV, c. 82, s. 4.]

(3) A Magistrate shall not take cognizance of a breach of any such rule except on the complaint of the authority which made the rule, or of some person authorised by that authority in this behalf.

## STATEMENT OF OBJECTS AND REASONS.

For many years past the committees of certain municipalities in Northern India have, for the purpose of preserving game from destruction, prescribed close seasons during which the possession or sale of game within municipal limits is prohibited.

2. This measure has to some extent attained its object, but its legality is open to question.

3. In these circumstances it is proposed to place beyond doubt the power of municipal committees to take such action and to confer similar powers on cantonment-authorities with respect to cantonments, and on Local Governments with respect to any municipality or cantonment within the territories respectively administered by them.

*The 8th June, 1887.*

J. B. PEILE.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th June, 1887:

NO. 7 OF 1887.

THE ALLAHABAD UNIVERSITY  
BILL, 1887.

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1. Title and commencement.
2. Establishment and incorporation of University.
3. Chancellor.
4. Vice-Chancellor.
5. Fellows.
6. First Fellows.
7. Vacation of office of Fellow.
8. Constitution and powers of Senate.
9. Chairman at meetings of Senate.
10. Proceedings at meetings of Senate.
11. Appointment of Syndicate, Faculties, examiners and officers.
12. Functions of Syndicate.
13. Power to confer degrees after examination.
14. Power to confer honorary degrees.
15. Power to levy fees.
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17. Officers and servants of the Senate to be deemed to be public servants.
18. Duty of Local Government to enforce Act and rules.
19. Notifications in certain cases.
20. Annual accounts.

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PART II.—PERSONS TO BE DEEMED TO HAVE BEEN APPOINTED, OR TO HAVE BEEN ELECTED AND APPROVED, AS FELLOWS UNDER SECTION 5, SUB-SECTION (1), CLAUSE (b) OR CLAUSE (c).

*A Bill to establish a University at Allahabad.*

WHEREAS it has been determined to establish a University at Allahabad; It is hereby enacted as follows:—

Title and commencement. 1. (1) This Act may be called the Allahabad University Act, 1887; and

(2) It shall come into force at once.

Establishment and incorporation of University. 2. (1) A University shall be established at Allahabad, and the Governor-General for the time being shall be the Patron of the University.

(2) The University shall consist of a Chancellor, a Vice-Chancellor, and such number of Fellows as may be determined in manner hereinafter provided.

(3) The University shall be a body corporate by the name of the, University of Allahabad, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for or incidental to the purposes of its constitution.

(4) The University shall come into existence on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

3. The Lieutenant-Governor of the North-Western Provinces, for the time being shall be the Chancellor of the University, and the first Chancellor shall be the Honourable Sir Alfred Comyns Lyall, Knight Commander of the Most Honourable Order of the Bath, Knight Commander of the Most Eminent Order of the Indian Empire.

4. (1) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may from time to time appoint in this behalf.

(2) Except as provided in sub-sections (3) and (4), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(3) If a Vice-Chancellor leaves India with or without the intention of returning thereto, he shall thereupon cease to be Vice-Chancellor unless the Chancellor otherwise directs.

(4) shall be deemed to have been appointed the first Vice-Chancellor, and his term of office shall, subject to the provisions of sub-section (3), expire on the day of

5. (1) The following persons shall be Fellows, namely:—

(a) every person who has held the office of Chancellor, and all persons for the time being holding such offices under the Government as the Local Government may, by notification in the official Gazette, specify in this behalf;

(b) persons whom the Chancellor may from time to time appoint by name as being eminent benefactors of the University, or persons distinguished for attainments in Literature, Science or Art, or for zeal in the cause of education; and

(c) such persons, if any, as may from time to time be elected by the Senate of the University and approved by the Chancellor:

Provided that—

(i) the whole number of the Fellows holding office under clauses (a), (b) and (c), exclusive of the Vice-Chancellor, shall never be less than thirty; and

(ii) the number of persons for the time being elected and approved under clause (c) shall never exceed the number for the time being appointed under clause (b).



(2) A person appointed under clause (b), or elected and approved under clause (c), of sub-section (1) does not, by succeeding to an office notified under clause (a) of that sub-section, cease to be a Fellow under clause (b) or clause (c) thereof, as the case may be.

6. (1) The offices specified in Part I of the schedule shall be deemed to have been specified in a notification issued under section 5, sub-section (1), clause (a); and

(2) The persons named in Part II of the schedule shall, except for the purposes of the second clause of the proviso to section 5, sub-section (1), be deemed to be Fellows appointed under clause (b) of sub-section (1) of section 5 or elected and approved under clause (c) of that sub-section.

7. (1) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate present at a meeting specially convened for the purpose, remove any Fellow appointed under clause (b) of sub-section (1) of section 5 or elected and approved under clause (c) of that sub-section; and the Local Government may, by notification in the official Gazette, cancel or amend any notification issued under section 5, sub-section (1), clause (a).

(2) If any Fellow appointed under clause (b) of sub-section (1) of section 5 or elected and approved under clause (c) of that sub-section, and not being a person named in Part II of the schedule, leaves India without the intention of returning thereto, or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

8. (1) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

(2) The Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall provide for that management and exercise that superintendence in accordance with the rules for the time being in force under this Act.

9. At every meeting of the Senate the Chancellor, or, in his absence, the Vice-Chancellor, or, in the absence of both, a Fellow chosen by a majority of the Fellows present at the meeting, shall preside as Chairman.

10. (1) Every question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present:

Provided that no question shall be decided at any such meeting unless ten members at the least, besides the Chairman, are present at the time of the decision.

(2) The Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote.

11. Subject to the rules for the time being in force under this Act, the Senate may from time to time—

(1) appoint, or provide for the appointment of, a Syndicate;

(2) constitute Faculties of Arts, Law, Science and Engineering and, with the previous approval of the Governor-General in Council, of Medicine;

(3) appoint, suspend and remove a registrar;

(4) appoint, suspend and remove, or provide for the appointment, suspension and removal of, examiners, officers and servants of the University;

(5) appoint, or provide for the appointment of, professors and lecturers, and suspend and remove, or provide for the suspension and removal of, professors and lecturers appointed by the Senate.

12. (1) The Syndicate shall be the executive committee of the Senate, and may discharge such functions of the Senate as it may be empowered to discharge by the rules for the time being in force under this Act.

(2) The Vice-Chancellor shall be a member and the chairman of the Syndicate.

13. Subject to the rules for the time being in force under this Act, the Senate may confer on persons who have passed such examinations in the University and fulfilled such other conditions as may be prescribed under this Act—

(a) in the Faculty of Arts, the degrees of Bachelor and Master of Arts; and, if empowered by the Governor-General in Council in this behalf,—

(b) in the Faculty of Law, the degrees of Bachelor and Doctor of Laws;

(c) in the Faculty of Science, the degrees of Bachelor and Doctor of Science;

(d) in the Faculty of Medicine, the degrees of Bachelor and Doctor of Medicine;

(e) in the Faculty of Engineering, the degrees of Bachelor and Master of Civil Engineering.

14. In the following circumstances, namely:—

(a) if the Senate has been empowered by the Governor-General in Council to confer the degree of Doctor of Laws on persons who have passed such examinations in the University and fulfilled such other conditions as aforesaid, and

(b) if the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of the members present at a meeting of the Senate and is confirmed by the Chancellor,

the Chancellor may, on behalf of the Senate, confer on that person the degree of Doctor of Laws without requiring him to undergo any examination.

15. (1) The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the rules for the time being in force under this Act.

(2) Such fees shall be carried to a General Fee Fund for the payment of expenses of the University under the directions and regulations of the Local Government.

16. (1) The Senate shall as soon as may be after the passing of this Act, and may from time to time thereafter, make rules consistent with this Act touching—

- (a) the mode and time of convening the meetings of the Senate and of transacting business thereat;
  - (b) the appointment, constitution and duties of the Syndicate and the Faculties;
  - (c) the appointment, suspension, removal, duties and remuneration of the registrar, examiners, officers and servants;
  - (d) the appointment, duties and remuneration of professors and lecturers, and the suspension and removal of professors and lecturers appointed by the Senate;
  - (e) the previous course of instruction to be followed by candidates for the examinations of the University;
  - (f) the examinations to be passed and the other conditions to be fulfilled by candidates for degrees; and
  - (g) generally, all matters regarding the University.
- (2) All such rules shall be reduced into writing and sealed with the common seal of the University, and shall,—
- (a) in the case of rules made under clause (e) or clause (f) of sub-section (1), after they have been confirmed by the Local Government and sanctioned by the Governor-General in Council; and,
  - (b) in the case of all other rules, after they have been sanctioned by the Local Government,

be binding on all persons members of the University, or admitted thereto, and on all candidates for degrees.

(3) If, on the expiration of eighteen months from the date on which the University comes into existence, rules have not been made and sanctioned or, as the case may be, made, confirmed and sanctioned, under the foregoing provisions of this section, touching a matter mentioned in sub-section (1), the Local Government may, by notification in the official Gazette, make such rules touching that matter as it thinks fit.

(4) Subject, in the case of rules touching any matter mentioned in clause (e) or clause (f) of sub-section (1), to the sanction of the Governor-General in Council, rules made by the Local Government under sub-section (3) shall be deemed to have been made and sanctioned, or, as

the case may be, made, confirmed and sanctioned under sub-sections (1) and (2).

17. (1) The registrar and every other officer of the Senate to be remunerated by the Senate shall, for the purposes of the Indian Penal Code, be deemed to be a public servant.

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (1), be deemed to include the Senate, and sections 162 and 163 of the Code shall be construed as if the words "or with any member of the Senate of the Allahabad University or any examiner of that University" were inserted after the words "with any Lieutenant-Governor."

18. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and the rules for the time being in force thereunder, and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and those rules.

19. All appointments made under section 4, all appointments made and elections approved under section 5, sub-section (1), clauses (b) and (c), all degrees conferred under sections 13 and 14, and all rules made under section 16, shall be notified in the local official Gazette, wherein also the record of the proceedings of every meeting of the Senate shall be published.

20. The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as that Government may direct.

## THE SCHEDULE.

(See section 6.)

### PART I.

Offices to be deemed to have been specified under section 5, sub-section (1), clause (a):—

The office of—

Bishop of Calcutta:

Chief Justice of the High Court of Judicature for the North-Western Provinces;

Chief Secretary to the Government of the North-Western Provinces and Oudh;

Secretary to the Government of the North-Western Provinces and Oudh in the Public Works Department;

Commissioner of Allahabad;

Commissioner of Lucknow ;  
 Commissioner of Agra ;  
 Director of Public Instruction, North-West-  
 ern Provinces and Oudh ;  
 Principal of the Muir College, Allahabad ;  
 Principal of the Queen's College, Benares.

## PART II.

Persons to be deemed to have been appointed,  
 or to have been elected and approved, as Fellows  
 under section 5, sub-section (1), clause (b) or  
 clause (c) :—

*(Names to be added hereafter.)*

## STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is the establishment of a University at Allahabad.

The great advance in higher education which has of late years taken place in the North-Western Provinces and Oudh, the number of efficient colleges situated in those Provinces which turn out a larger number of students year by year, and the serious strain thereby imposed on the resources of the Calcutta University for the effective examination and careful testing of the merits of candidates from Provinces differing perceptibly in manners, habits and social characteristics—all call for the establishment of a University with power to confer degrees at the capital of the united Provinces.

The number of candidates who matriculated has risen from 60 in 1869 to 208 in 1885, and is almost double the average number that matriculated for the Bombay University during the first ten years of its existence.

The number of undergraduates studying at institutions in the North-Western Provinces and Oudh affiliated with the Calcutta University has nearly doubled within the last five years, and already exceeds that of many of the smaller Universities of Europe. The average number of both M. A. and B. A. degrees has increased by about one-third within the same period, and is greater than was conferred by the Calcutta University for many years after its first establishment.

The materials for the proposed University are thus ample, and it may be expected that its foundation will be followed by a considerable, if not immediate, increase in the number of students who devote themselves to the higher educational course not only in the North-Western Provinces and Oudh, but also in the cognate populations of the Central Provinces and Rajputana.

*The 8th June, 1887.*

J. W. QUINTON.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill for the better administration of Her Majesty's Indian Marine Service was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th June, 1887:

We, the undersigned, Members of the Select Committee to which the Bill for the better administration of Her Majesty's Indian Marine Service was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report with a copy of the Bill as revised by us annexed thereto.

From Registrar, High Court, Calcutta, No. 278, dated 4th February, 1887 [Paper No. 1].  
From Acting Chief Secretary to Government, Madras, No. 273, dated 9th February, 1887, and enclosures [Papers No. 2].  
From Officiating Secretary to Government, Bengal, No. 974, dated 28th February, 1887, and enclosure [Papers No. 3].  
From Secretary to Chief Commissioner, Burma, No. 619—10 N., dated 25th February, 1887 [Paper No. 4].  
From Acting Under Secretary to Government, Bombay, No. 1334, dated 2nd March, 1887, and enclosure [Papers No. 5].  
From Acting Under Secretary to Government, Bombay, No. 1382, dated 4th March, 1887 [Paper No. 6].  
Endorsement by Officiating Under-Secretary to Government, Bengal, No. 1058, dated 4th March, 1887, and enclosure [Papers No. 7].

2. In the preamble we have set forth the provisions of the Indian Marine Service Act, 1884 (47 & 48 Vic., c. 38) in somewhat greater detail.

3. We have added to section 2 a sub-section providing for the contingency of new appointments of gazetted officers, warrant-officers and petty officers being created after the passing of the proposed Act.

4. As the vessels of the Indian Marine may be employed in the suppression of piracy and other like services at times when, under section 6 of the Act of 1884, their crews would not be subject to the Naval Discipline Acts, we have considered it advisable to incorporate in the Bill (sections 5 to 10 of the Bill as revised) some of the provisions of the Naval Discipline Act of 1866 respecting misconduct in the presence of the enemy and communications with the enemy.

5. We have provided (section 36 of the Bill as revised) that offences punishable by ordinary law shall, subject to the provisions of the Indian Marine Service Act, 1884, with respect to the character and severity of punishments, be as a rule punishable under the ordinary law of British India. We have further provided that such offences shall be exclusively cognizable by Criminal Courts (section 41 of the Bill as revised) unless they happen to be offences against good order and discipline punishable, if they were tried under the ordinary law of British India, with imprisonment for a term not exceeding seven years (section 32 of the Bill as revised).

6. We have made all minor breaches of discipline cognizable exclusively by Indian Marine Courts, and the more serious breaches cognizable concurrently by Indian Marine Courts and Criminal Courts (section 41 of the Bill as revised).

7. We have added to section 53 of the Bill as revised a sub-section providing for the dissolution of an Indian Marine Court when the president dies or is unavoidably absent and the next senior member of the Court is not qualified to take his place.

8. In section 58 of the Bill as revised we have provided that when two or more prisoners are being tried, and the trial of one or some only of them has to be temporarily abandoned by reason of his or their illness, the trial of the other prisoner or prisoners may be continued. We have also provided that, where the illness is insanity, the Court is to proceed, as nearly as circumstances admit, as a Magistrate or Court may proceed under section 466 of the Code of Criminal Procedure.

9. We have inserted a new section (section 64) providing for the transmission of proceedings to the confirming authority, and in section 66 of the Bill as revised we have modified the description of that authority.

10. We have struck out of section 68 of the Bill as revised the words which empowered the Governor-General in Council to make rules of evidence additional to those in the Indian Evidence Act, 1872.

11. We have provided in section 82 of the Bill as revised that the Director of Marine shall be the officer to whom the proceeds of unclaimed property of deceased persons and of the property of deserters are to be remitted.

12. The other alterations are either verbal or in the arrangement of sections, and do not call for remark.

13. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ... ..	15th January, 1887.
Port Saint George Gazette ... ..	1st February, 1887.
Bombay Government Gazette ... ..	27th January, 1887.
Calcutta Gazette ... ..	19th February, 1887.
Burma Gazette ... ..	7th February, 1887.

*In the Vernaculars.*

<i>Provinces.</i>	<i>Language.</i>	<i>Date.</i>
Bengal ... ..	Bengali ... ..	26th April, 1887.
	Hindi ... ..	22nd March, 1887.
	Uriya ... ..	10th March, 1887.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

G. CHESNEY.

ANDREW R. SCOBLE.

J. B. PEILE.

*The 8th June, 1887.*



## No. II.

## THE INDIAN MARINE BILL, 1887.

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*A Bill for the better administration of Her Majesty's Indian Marine Service.*

47 & 48 Vic., c. 38. WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor-General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service:

24 & 25 Vic., c. 67.

Provided, that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act, to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case

of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor-General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title and commencement. I. (1) This Act may be called the Indian Marine Act, 1887; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) "person subject to this Act" means a person who is employed or serves in, or belongs to, the Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act:

(b) "gazetted officer" means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,	Chief engineer,
First grade officer,	Engineer,
Second grade officer,	Assistant engineer, or
Third grade officer,	Clerk:

(c) "warrant-officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,	Engine-driver, first class,
Apothecary,	Carpenter,
Assistant apothecary,	Hospital assistant, or
Assistant clerk,	General mess steward:

(d) "petty officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,	Tindal of lascars, first class,
Chief syrang, second class,	Tindal of lascars, second class,
Ship's steward,	Tindal of stokers, first class,
Engine-driver, second class,	Tindal of stokers, second class,
Cook on a salary of not less than fifty rupees per mensem,	Cassaub, first class,
General mess butler,	Cassaub, second class, or
Syrang of lascars, first class,	Cook on a salary of less than fifty rupees per mensem:
Syrang of lascars, second class,	

*The Indian Marine Bill, 1887.**(Chapter I.—Preliminary.—Sections 3-4.)**(Chapter II.—Offences and Punishments.—Sections 5-8.)*

(e) "superior officer," used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor-General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons:

(g) "enemy" includes a pirate or rebel:

(h) "Indian Marine Court" means an Indian Marine Court held under this Act:

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor-General in Council: and

(j) "prescribed" means prescribed by rules made by the Governor-General in Council.

(2) If an appointment in the Indian Marine Service is created after the passing of this Act, the Governor-General in Council may, by notification published in the Gazette of India at any time after the commencement of this Act, assign to the officer for the time being holding the appointment such place in clause (b), clause (c) or clause (d) of sub-section (1) as he thinks fit, and thereupon that officer shall for all the purposes of this Act be deemed to be mentioned in that place, and to be a gazetted officer, warrant-officer or petty officer, as the case may be, and to be the superior officer of any officer mentioned after him in any of the clauses aforesaid, and of any person subject to this Act who is not mentioned in any of those clauses.

3. A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall cause to be read and explained to him the prescribed portions of this Act, and of the rules and conditions of service; and if the officer is satisfied that the person understands those portions he will administer to him an oath of allegiance in the prescribed form, and cause him to sign or, if he cannot write, to affix his mark to the prescribed roll.

4. In addition to any other rules which may be made under this Act, the Governor-General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

## CHAPTER II.

## OFFENCES AND PUNISHMENTS.

*Misconduct in the Presence of the Enemy.*

Misconduct of commanding officer in action.

5. If a commanding offi-

- (i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or
- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or,
- (iii) when capable of making a successful defence, surrenders his vessel to the enemy, or
- (iv) in time of action improperly withdraws from the fight,

he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

6. If any officer subject to this Act—  
Not pursuing the enemy or not assisting a friend in view.

- (i) forbears to pursue the chase of any enemy beaten or flying, or
  - (ii) does not relieve and assist a known friend in view to the utmost of his power, or
  - (iii) improperly forsakes his station,
- he shall—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

7. If any person subject to this Act,—  
Delaying or discouraging action or service, or deserting post or sleeping on watch.

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy, deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.



*The Indian Marine Bill, 1887.**(Chapter I.—Preliminary.—Sections 3-4.)**(Chapter II.—Offences and Punishments.—Sections 5-8.)*

(e) "superior officer," used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor-General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons:

(g) "enemy" includes a pirate or rebel:

(h) "Indian Marine Court" means an Indian Marine Court held under this Act:

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor-General in Council: and

(j) "prescribed" means prescribed by rules made by the Governor-General in Council.

(2) If an appointment in the Indian Marine Service is created after the passing of this Act, the Governor-General in Council may, by notification published in the Gazette of India at any time after the commencement of this Act, assign to the officer for the time being holding the appointment such place in clause (b), clause (c) or clause (d) of sub-section (1) as he thinks fit, and thereupon that officer shall for all the purposes of this Act be deemed to be mentioned in that place, and to be a gazetted officer, warrant-officer or petty officer, as the case may be, and to be the superior officer of any officer mentioned after him in any of the clauses aforesaid, and of any person subject to this Act who is not mentioned in any of those clauses.

3. A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall cause to be read and explained to him the prescribed portions of this Act, and of the rules and conditions of service; and if the officer is satisfied that the person understands those portions he will administer to him an oath of allegiance in the prescribed form, and cause him to sign or, if he cannot write, to affix his mark to the prescribed roll.

4. In addition to any other rules which may be made under this Act, the Governor-General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

General power to make rules.

## CHAPTER II.

## OFFENCES AND PUNISHMENTS.

*Misconduct in the Presence of the Enemy.*

Misconduct of commanding officer in action.

5. If a commanding officer—

- (i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or
- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or,
- (iii) when capable of making a successful defence, surrenders his vessel to the enemy, or
- (iv) in time of action improperly withdraws from the fight,

he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

6. If any officer subject to this Act—

- (i) forbears to pursue the chase of any enemy beaten or flying, or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or
- (iii) improperly forsakes his station,

he shall—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

7. If any person subject to this Act,—

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy, deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.



*The Indian Marine Bill, 1887.**(Chapter II.—Offences and Punishments.—Sections 9-22.)**Communications with the Enemy.*Corresponding, &c.,  
with the enemy.9. If any person subject  
to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
  - (ii) fails to make known to the proper authorities any information which he may have received from the enemy, or
  - (iii) relieves the enemy with any supplies,
- he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Neglect of Duty.*

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

*Mutiny.*

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned ; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

- (a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned ; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

15. A person subject to this Act who makes a mutinous assembly or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal

servitude or such other punishment as is hereinafter mentioned.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Insubordination.*

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Desertion and Absence without Leave.*

Desertion.

19. A person subject to  
this Act who—

- (i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place ; or
- (ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place ;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned ;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor-General in Council.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his

*The Indian Marine Bill, 1887.**(Chapter II.—Offences and Punishments.—Sections 23-35.)*

vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require.

*Miscellaneous Offences.*

23. A person subject to this Act who is guilty of drunkenness on boardship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

25. A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

26. An officer in command of an Indian Marine Service vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel, which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

27. A person subject to this Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

28. A person subject to this Act who unlawfully sets fire to any dock-yard, victualling yard, steam-factory yard, arsenal, magazine, building or stores, or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other

person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not otherwise specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Provided that if such act, disorder or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

34. A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

*The Indian Marine Bill, 1887.*

(Chapter II.—Offences and Punishments.—Sections 36-40. Chapter III.—Jurisdiction and Powers.—Section 41.)

*Offences punishable by Ordinary Law.*

36. If a person subject to this Act is guilty of any criminal offence which is committed in British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India:

47 & 48 Vic.  
c. 38.

Provided that, except as authorised by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

*Punishments.*

Schedule of punishments. 37. (1) The following punishments may be inflicted under this Act:—

- (a) death;
- (b) penal servitude;
- (c) dismissal with disgrace from the Indian Marine Service;
- (d) imprisonment;
- (e) dismissal from the Indian Marine Service;
- (f) loss of seniority as an officer for a specified time or otherwise;
- (g) dismissal from the ship to which the offender belongs;
- (h) severe reprimand, or reprimand;
- (i) disrating a warrant-officer or petty officer or any other person below that rank;
- (j) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations as to the infliction of punishments. 38. The following regulations shall apply to the infliction of punishments:—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(8) When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

## CHAPTER III.

## JURISDICTION AND POWERS.

41. Subject to the provisions of this Act, and as respects Criminal Courts, subject to the law relating to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table:—

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 5	Misconduct of commanding officer in action.	Criminal Courts and Indian Marine Courts.
" 6	Not pursuing the enemy or not assisting a friend in view.	
" 7	Delaying or discouraging action or service or deserting post or sleeping on watch.	
" 8	Misconduct of subordinate officers and men in action.	
" 9	Corresponding, &c., with the enemy.	
" 10	Improper communication with the enemy.	Indian Marine Courts.
" 11	Neglect of duty.	

*The Indian Marine Bill, 1887.*  
(Chapter III.—Jurisdiction and Powers.—Sections 42-49)

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 12	Mutiny accompanied by violence.	Criminal Courts and Indian Marine Courts.
" 13	Mutiny not accompanied by violence.	
" 14	Inciting to mutiny.	
" 15	Mutinous assembly or uttering seditious words.	
" 16	Concealing traitorous, mutinous or seditious practice, design or words.	Indian Marine Courts.
" 17	Striking or using violence to superior officer.	
" 18	Disobedience or using threatening language to superior officer.	Criminal Courts and Indian Marine Courts.
" 19	Desertion.	
" 20	Inducing any person to desert.	Indian Marine Courts.
" 21	Breaking out of vessel.	
" 22	Absence without leave.	
" 23	Drunkenness on board ship or on duty.	
" 24	Cruelty or misconduct by officer.	Criminal Courts and Indian Marine Courts.
" 25	Suffering vessel to be lost or imperilled.	
" 26	Unlawful taking of goods on board.	Indian Marine Courts.
" 27	Embezzling public stores.	
" 28	Arson.	Criminal Courts.
" 29	Making false documents.	
" 30	Malingering or misconduct in hospital.	Indian Marine Courts.
" 31	Creating disturbance on account of complaints.	
" 32	Offences to the prejudice of good order and discipline not otherwise specified.	Criminal Courts and Indian Marine Courts.
" 33	Not assisting in arresting offenders.	
" 34	Contempt of Court.	Criminal Courts.
" 35	False evidence.	
" 36	Offences punishable by ordinary law.	

Power to pass sentences. 42. Subject as aforesaid—

(a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and

(b) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

43. (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor-General in Council may make, be summarily tried and punished by the commanding officer of the offender.

(2) Subject to the provisions of this Act and to such restrictions as the Governor-General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

45. Where such an offence has been committed by any person while subject to this Act he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely:—

(a) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court;

(b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor-General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.



*The Indian Marine Bill, 1887.**(Chapter III.—Jurisdiction and Powers.—Sections 50-51.)**(Chapter IV.—Indian Marine Courts.—Sections 52-57.)*

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed officer may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

Application of Act  
XV of 1869 to Indian  
Marine Courts.

XV of 1869.

51. The Governor-General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

Powers of Governor-  
General in Council in  
respect of sentences.

## CHAPTER IV.

## INDIAN MARINE COURTS.

*Constitution of the Court.*

52. (1) The following authorities shall have power to convene Indian Marine Courts, namely:—

- (a) the Governor-General in Council;
- (b) the Director of Marine;
- (c) an officer empowered in that behalf by warrant of the Governor-General in Council:

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor-General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

53. (1) An Indian Marine Court shall consist of a president and not less than two or more than four other members of rank not inferior to that of first grade officer, as may be ordered by the convening authority:

Provided that an Indian Marine Court convened under section 52, sub-section (2), may be composed of the officer convening the same as president and the two graded officers next in seniority available for the duty.

Composition of In-  
dian Marine Court.

(2) The president of an Indian Marine Court for the trial of a commander shall always be a commander, and two at least of the other officers composing the Court shall be commanders.

(3) The president of an Indian Marine Court for the trial of any person below the grade of commander, except an Indian Marine Court convened under section 52, sub-section (2), shall be a commander.

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court after the commencement of the trial is reduced to a less number than three members it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

*Procedure at the Trial.*

54. An Indian Marine Court shall be held on Board one of Her Majesty's Indian Marine vessels or on land.

Place of sitting of  
Indian Marine Court.

55. As soon as an Indian Marine Court is assembled the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (2), (3), (4) and (5):

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

56. (1) Before an Indian Marine Court proceeds to try a prisoner an oath shall be made by every member of the Court in the prescribed manner.

Oaths.

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

57. When no specific charge is made against any person subject to this Act for, or in respect of, the wreck, loss, destruction or capture of any vessel in the Indian Marine Service, all the officers and crew

Trial of officers and  
crew by one Court.



*The Indian Marine Bill, 1887.**(Chapter IV.—Indian Marine Courts.—Sections 58-69.)*

of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court, and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

**58. (1)** If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved:

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

**59.** Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

**60.** The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

**61.** Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote:

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

**62. (1)** Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

**63.** When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

*Confirmation of Findings and Sentences.*

**64. (1)** The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

**65.** A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

**66. (1)** The confirming authority shall ordinarily be the authority convening the Court.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor-General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor-General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor-General in Council.

(3) The fact that the Governor-General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

**67. (1)** The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(3) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

(a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;

(b) suspend for such time as seems expedient the execution of the sentence;

(c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

*Evidence.*

**68.** The Indian Evidence Act, 1872, subject to such modifications therein as the Governor-General in Council may, by notification in the Gazette of India, direct, shall apply to all proceedings before Indian Marine Courts.

*Preservation of Proceedings.*

**69. (1)** The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of

*The Indian Marine Bill, 1887.**(Chapter IV.—Indian Marine Courts.—Section 70. Chapter V.—Supplemental Criminal Provisions.—Section 71-76.)*

the trial of a gazetted officer, or than three years in the case of any other person.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

*Power to make Rules respecting Procedure.*

70. (1) The Governor-General in Council may make rules to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

(2) The Governor-General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882.

X of 1882.

## CHAPTER V.

## SUPPLEMENTAL CRIMINAL PROVISIONS.

*Procedure of Criminal Courts beyond British India.*

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor-General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

*Arrest.*

72. The following rules shall apply to persons subject to this Act when charged with offences under this Act:—

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with;

but when he thinks the charge ought to be proceeded with he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

*Execution of Sentences of Indian Marine Courts and Commanding Officers.*

74. (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced:

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which such person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences; and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed officer to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court:

*Provided that—*

(a) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged;

(b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

*Savings.*

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

*The Indian Marine Bill, 1887.**(Chapter V.—Supplemental Criminal Provisions.—Sections 77-79. Chapter VI.—Provisions of Civil Law.—Sections 80-82.)*

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

*Saving of rules of service.*

- (a) to dismissal, loss of seniority, disrating, forfeiture or stoppages; or
- (b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

*Amendment of Acts.*

X of 1882. 78. In the Code of Criminal Procedure, 1882, section 54, after the words "Army or Navy" the following shall be inserted, namely:—

*Amendment of Act X of 1882, section 54 (Arrest of Deserters).*

"or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service."

XLV of 1860. Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy).

79. After section 138 of the Indian Penal Code the following section shall be inserted, namely:—

"138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen."

*Application of foregoing sections to the Indian Marine Service.*

## CHAPTER VI.

## PROVISIONS OF CIVIL LAW.

*Exemption from Process.*

80. (1) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them, that is to say:—

*Exemption from arrest for debt.*

- (a) on account of a criminal charge or conviction;
- (b) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.

(2) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

81. The clothes, equipment or arms of a person subject to this Act shall not be seized, nor

ances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature.

*Property of Deceased Persons and Deserters.*

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts:—

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed officer thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

S. HARVEY JAMES.



# The Gazette of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 7th January, 1887.

### PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble Mahārājā Luchmessur Singh, Bahádur, of Durbhunga.  
The Hon'ble R. Steel.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Syud Ameer Hossein.  
The Hon'ble Peári Mohan Mukerji.  
The Hon'ble W. S. Whiteside.

### INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to consolidate and amend the law relating to the Protection of Inventions and Designs. He said:—

"The present law is contained in three Acts of Council—Act XV of 1859 in regard to patents, Act XIII of 1873 in regard to patterns and designs, and Act XVI of 1883 in regard to inventions exhibited at public exhibitions.

"The Act of 1859, introduced by Sir Barnes Peacock in 1855, was in many respects an improvement upon the existing English law of patents. In England the principle prevailed of giving an inventor his exclusive privilege by a grant from the Crown. In India it was thought preferable that he should derive it

under the Act itself, subject to certain restrictions. The substantive law of patents for India was thus contained in the Act of Council, which laid down in clear terms the conditions which must be fulfilled to entitle an invention to protection under the law.

"The procedure established by the Act was also of the simplest description. On petition and leave given to file a specification, and on the specification being filed within the prescribed period, the exclusive privilege sprang into existence by mere operation of law, provided, of course, that the claim was well-founded in substance—a matter of which the claimant, as in England, took the risk.

"In the Bill which I now ask leave to introduce these main characteristics of the Act of 1859 have been carefully preserved. But a quarter of a century's experience of the working of this Act has shown, as might be expected, difficulties to be removed and improvements to be effected. The work of alteration has not been lightly undertaken, and the measure which I submit is the result of the labours of my distinguished predecessor, after communication with the Secretary of State and the authorities of the Board of Trade in England.

"I will now briefly refer to the leading features of the Bill. It is divided into two Parts, the one relating to inventions and the other to designs. The former Part reproduces the Act of 1859 with certain modifications: the latter part is an adaptation of the essential provisions of Part III of the English Act of 1883.

"With regard to the machinery by which the law is to be worked, the general superintendence will be by the Government of India, with the assistance of the High Courts and District Courts in contentious matters. The jurisdiction now exercised by the High Courts at Calcutta, Madras and Bombay will be extended to the High Court at Allahabad, the Chief Court of the Punjab and the Recorder of Rangoon. And as Government has had under consideration the constitution of an Inventions Office under the superintendence of the Secretary to the Government of India in the Revenue and Agricultural Department, and the transfer to him of the functions exercised under Act XV of 1859 by the Secretary to the Government of India in the Home Department, power is taken to accomplish this object by an administrative arrangement.

"The next important point is as to specifications. The petition for leave to file a specification of an invention presented under section 1 of the Act of 1859 not infrequently furnishes only a vague description of the invention which it is sought to protect, and, when a fuller and clearer description is called for, it is at times only supplied under protest. The Bill therefore provides that the specification must describe with reasonable precision and detail the nature of the invention, and be supplemented by such further particulars relating to the invention, and by such drawings or models illustrative thereof, as the Governor General in Council may see fit to require. This, I think, is only right, for, as Sir Barnes Peacock well observed when introducing the Bill of 1859, 'the only thing which an inventor gives to the public as a consideration for the exclusive privilege conferred upon him, is a knowledge of his invention. He ought, therefore, before he obtains an exclusive privilege, to communicate to the public such a knowledge of his invention as will enable them to practise it as soon as his exclusive privilege expires.'

"The next point is this. When an application for leave to file a specification has been made, it becomes the duty of the Government, in the public interest, to enquire into the merits of the application. Successive Advocates General have advised that the existing law imposes upon the Government the duty of making enquiry to an extent which must at times seriously delay the progress of an application, without producing any commensurate advantage. The Bill proposes to leave to the Governor General in Council a discretion as to the nature and extent of such enquiries, permitting a reference to experts in cases in which it seems desirable, and leaving to Government, instead of to the High Court, as at present, the settlement of the expert's fee.

"While upon the question of fees I may say that this part of the Act is based on section 24 and the second schedule of the English Act, and on the first schedule to the Patent Rules, 1883, made by the Board of Trade under the Act. Light fees are proposed to be levied in respect of applications for leave to file specifications and in respect of the filing of specifications, and increasingly heavy fees periodically in respect of the continuance of an exclusive



privilege. Under section 8 of the Bill an exclusive privilege will cease if any fee in respect of its continuance is not paid within the time limited for the payment.

"I now come to that part of the Bill which relates to the privileges granted to inventors. A question has recently arisen as to whether a person is precluded under the existing law from proceeding to acquire concurrently a patent under the English Act and an exclusive privilege under the Indian Act; and it has been held, on the advice of the Hon'ble the Advocate General of Bengal, that he is not so precluded, provided he can truly state at the time of applying for leave to file his specification in India that his invention is not publicly used or known in the United Kingdom. It is proposed therefore to provide in the Bill, on the analogy of the provisions of sections 103 and 104 of the English Act, that, if an inventor applies for leave to file a specification in India within one year from the date of his application for a patent in England, he shall have the right to do so.

"In regard to concurrent applications in respect of contemporaneous inventions it has been found that applications have been made by two or more persons at the same time to obtain exclusive privileges of the same manufacture; and we propose to follow the English rule and authorise both or all the applicants to file specifications.

"Then, as cases of hardship have occurred owing to there being no provision for extending the period of six months within which section 4 of the Act of 1859 requires a specification to be filed, after an order authorising the filing of it has been made, it is proposed to empower the Governor General in Council, on cause shown to his satisfaction, to extend the period from six to nine months.

"It is also proposed to obviate another hardship by permitting the holder of a patent obtained in England to apply to the Governor General in Council, within twelve months from the day on which the patent was actually sealed, for leave to file a specification in this country.

"In England the date of application and of the sealing of the invention are supposed to be the same, but in point of fact they are on different dates, there being sometimes a difference of 18 or 20 months between them. It is therefore proposed to give the holder of an English patent the fullest opportunity of availing himself of the Indian Act by making the date of actual sealing the starting point of the period within which he may make his application.

"In the case of new manufactures exhibited at exhibitions in India, it is proposed, in repealing Act XVI of 1883, to protect such inventions not merely from the date of the opening of an exhibition but from the date of their admission into the exhibition. The English Act is about to be amended in this respect, and it only seems fair that this should be done.

"Under section 20 of the Act of 1859 it was provided that, where a patent for an invention has been obtained in the United Kingdom, an exclusive privilege in respect of the invention in India is not to extend beyond the term granted by the patent. It has been found that this rule has proved in many cases to be a hardship, and under the advice of the Board of Trade it is proposed to rescind it.

"A matter of some difficulty in legislation of this kind arises upon the question whether servants of Government and of public bodies, such as municipalities, should be allowed the same privileges as private individuals in regard to inventions made by them in the course of their employment. Without entering into the argument—and there is a good deal to be said on both sides—I will merely say now that the Bill follows section 27 of the English Act in making an exclusive privilege have the same effect against the Crown as it has against a subject. But it authorises officers of the Crown to use the invention for the services of the Crown on terms to be before or after the use thereof agreed on with the approval of the Governor General in Council, or, in default of agreement, on terms to be settled by the Governor General in Council.

"In another respect, which will probably provoke less animadversion, we have followed the English Act in providing for the grant of compulsory licenses where an inventor who has acquired an exclusive privilege does not make his invention accessible to the public on reasonable terms.



"The last point to which I think it necessary to refer in connection with Part I of the Bill is a provision by which, when the extension of an exclusive privilege is sought for a further period, the Governor General in Council may, if he thinks fit, refer the application to a High Court for report. This is in analogy to the practice in England, where such references are made to the Judicial Committee of the Privy Council.

"Part II of the Bill relates to designs, and requires but little comment from me. It is admitted that Act XIII of 1872 has failed to effect the object for which it was passed, and that if designs are to be protected here, as they are in every civilized country, legislation is necessary. The present Bill is a mere adaptation of Part III of the English Act of 1883. It extends from three to five years the period during which copyright in a design is to continue. I see no reason to doubt that this measure, which is working well at home, will be equally effective here.

"These, I think, are the main provisions of the Bill which I now ask leave to introduce."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

#### SEA CUSTOMS ACT, 1878, EXCISE ACT, 1881, AND INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR A. COLVIN moved for leave to introduce a Bill to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882. He said :—

"Although one of the objects of this measure is to a certain extent to extend and modify the duties at present in force upon the import of European liquors, the aim of the Government is not to increase its revenue from that source, however unobjectionable a source of income the excise on imported liquor may be, but to meet certain representations which have been put before it from time to time by firms engaged in the importation of European liquors.

"Under the tariff as it now stands imported spirit is charged with a duty of four rupees a gallon when it is of the strength of London proof, the duty being rateably increased as the strength goes above London proof, though no allowance is made when the strength falls below proof.

"Representations have been made from time to time by importers of spirit, urging that, as the tariff provides for an increase of duty when spirit exceeds London proof in strength, it should in fairness provide for a reduction of duty when the strength falls below London proof. When these representations were first made to the Government about five years ago, it was not considered expedient to make the change proposed. The claim, which was put forward by European importers of the better classes of spirit, was based on the ground that the revenue suffered and would continue to suffer by the practice enjoined by law. The argument was that spirit imported in bottles, always much under proof, to the extent of 15° or 20°, paid the full duty of four rupees as if it were proof spirit, and that this charge was an inducement to importers to land their spirit in wood and of a strength much over proof, and bottle it in this country after dilution, bringing it down much below proof. It was held by the Government that, though the argument was reasonable in principle, the result threatened was not likely to arise in practice, for the value to the consumer of good brands of spirit rested on the well known marks and labels on the bottles in which it was imported, and there was little fear of a change of practice which would certainly largely diminish the value of the class of spirit imported by firms like that which made the representation. For this reason, and also because the change would lead to a loss of revenue which could not

be afforded, it was decided not to take any action in the matter, and the tariff was left unchanged.

"It was found, however, in 1884, from a communication received from the Government of Bombay, that dealers in low class spirit had discovered the advantage of importing strong spirit in wood, to be diluted and bottled off in this country, and that the practice had become quite common, with an increasing loss to the revenue. This fact changed the aspect of the case altogether, for with the increasing use of cheap foreign spirit by Native consumers the practice must every year lead to a larger loss of revenue. There was also the loss in the excise on country liquor displaced by this unduly favoured cheap foreign spirit. There was unfairness to the importers of spirit of the better kinds, who were unable to follow the same plan, and who paid as on proof spirit for their bottled spirit imported at a strength of from 15° to 20° below proof. Lastly, there was certainly a risk of adulteration in bottling off this cheap spirit in the premises of unscrupulous dealers in liquor.

"Enquiry was therefore made in view to taking action which would on the one hand give equal justice to all importers, and on the other prevent a loss to the revenue. It was found on reference to the other Local Governments that the practice reported from Bombay was by no means uncommon, and the next question to consider was the nature of the remedy to be adopted.

"There were three courses open. We might have retained the four-rupee rate of duty on proof spirit, and have allowed a *pro rata* reduction for spirit below proof; or we might have fixed the limit of strength for the four-rupee rate at 15° or some other limit below proof, and have increased the duty with increased strength, not allowing any reduction for lesser strength than that fixed for the standard; or we might have increased the rate of duty on proof spirit, and allow for reduced strength and charge for increased strength.

"The first of these courses means in fact a reduction in the present rate of taxation on liquor. Now we are not prepared to bear any loss in any direction at present, and if there were any prospect of relief being given to the tax-payer it might certainly be given in many other directions in preference to a reduction of the tax on liquor.

"The second of these courses would be ineffectual; for, if we now fixed, say, 15° below proof as the limit of strength for our standard rate, we should at once have importers of still weaker spirit clamouring against the unfairness of charging on spirit of 20° or 25° under proof the same rate of duty as on spirit of 15° under proof, and the argument would be quite as reasonable as the argument used against the present rate.

"We have decided therefore to adopt the third course, and raise the rate of duty on proof spirit to five rupees the gallon, allowing a rateable reduction on strengths below proof and charging a proportionate increase on strengths above proof. We could not approve any proposal which will diminish the liquor revenue, and this alteration of the tariff, which gives to importers the equitable treatment for which they ask, is the only way we think in which this can be done without loss to the State. The measure will entail some expense and inconvenience consequent on the introduction of differential rates of import-duty; but it is believed that the expense will not be considerable and will be quite covered by increased receipts. The gain to legitimate trade from the removal of the practice at present obtaining, and the fact that differential rates were suggested by the trade itself, may be balanced against the prospect of any inconvenience which may follow on the introduction of the revised system.

"A further amendment of the tariff has also been made on this occasion which requires explanation. When the tariff was amended in 1882, perfumery, with most other articles, was struck out of the list of articles subject to duty, perfumed spirit being alone left liable to duty when imported in bottles or vessels containing more than four ounces. The immediate effect of this provision was an enormous increase in the importation of perfumed spirit—mostly called eau de Cologne—in bottles of four ounces and less. In 1884-85 some 37,000 gallons were thus imported. A very large proportion of these imports—probably the great mass of them—consists of strong raw spirit very slightly perfumed; and it has now been ascertained beyond a doubt that this stuff is commonly drunk by certain classes who, being ashamed to buy liquor in its

common form, save appearances by buying and drinking this liquor (sold to them by dealers who pay for no liquor license and unfairly compete with licensed liquor vendors) under the disguise of perfumery. This practice obtains largely in the Bombay Presidency, and, though not so common, is by no means unknown in other parts of India. It is very desirable to arrest the progress of this pernicious practice, and we have decided therefore to charge all perfumed spirit, irrespective of the capacity of the vessel containing it, with a duty of six rupees the gallon. We propose to levy this rate irrespective of the strength of the spirit, because the process of testing for strength when the spirit is really intended as a perfume and is imported under the labels of well-known makers would not be practicable. When bottles of such perfume are opened before sale they lose their value. This rate of duty may be considered high, but the temptation to secret drinking in respectable classes of unwholesome spirit thus disguised, to the detriment of the regular and open liquor trade, is very strong, and a high duty is required to counteract it and prevent the loss to the revenue which is now found to occur.

"It has been found convenient also to include in the same Bill certain other amendments on cognate though not closely connected points.

"When section 6 of the Tariff Act was repealed by Act IX of 1885, a reference to the repealed section in section 23 of the Excise Act was overlooked. The necessary alteration in the Excise Act has therefore now been made.

"An omission in the same section of the Excise Act is also corrected. That section as it now stands provides for the levy of duty on spirits imported by land from beyond the limits of British India, the import of which does not fall within the terms of the Tariff Act. This provision has been extended to wine also in the Bill. The need for this had not before arisen, as wine has not hitherto been manufactured in India or in any place from which wine could be imported without being liable to the duty imposed by the Tariff Act. It has now arisen in consequence of the manufacture of wine in Kashmir. The particular case of Kashmir could have been met by declaring Kashmir to be foreign territory under section 5 of the Tariff Act. But it is deemed preferable to make a general provision in the Excise Act as has been done in the Bill.

"Lastly, the Madras Government has found that certain provisions of the Sea Customs Act do not fit in with the excise arrangements now in force in that Presidency. These require that the transport of country spirit by sea from one part of the Presidency to another under bond should be permitted, while Chapter XIV of the Sea Customs Act does not allow this procedure. The Act has therefore been amended so as to render legal the Madras excise arrangements, and to make it clear that the duty on spirit so transported is the excise-duty as provided in the Sea Customs Act and not the tariff rate prescribed by section 7 of the Tariff Act."

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also introduced the Bill.

#### REPORTS OF SELECT COMMITTEES.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

The Hon'ble MR. SCOBLE also presented the Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872.

The Hon'ble MR. SCOBLE also presented the Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882.

#### SELECT COMMITTEES.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to consolidate and amend the law relating to Guardian and Ward.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to amend the law relating to Imprisonment for Debt.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Rana Shankar Baksh Singh Bahadur be added to the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877.

The Motion was put and agreed to.

#### REPORT OF SELECT COMMITTEE.

The Hon'ble MR. PEILE presented the Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body.

The Council adjourned to Friday, the 14th January, 1887.

S. HARVEY JAMES,

*Offg. Secretary to the Govt. of India,  
Legislative Department.*

FORT WILLIAM; }  
*The 11th January, 1887.* }



# The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 22, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 14th January, 1887.

### PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble R. Steel.  
The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Rana Shankar Bakhsh Singh Bahadur, C.I.E.  
The Hon'ble Syud Ameer Hossein.  
The Hon'ble PEARI MOHAN MUKERJI.  
The Hon'ble W. S. Whiteside.

### INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved that the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs be referred to a Select Committee consisting of the Hon'ble Mr. Peile, the Hon'ble Mr. Steel, the Hon'ble Rao Saheb Vishvanath Narayan Mandlik and the Mover.

The Motion was put and agreed to.

### GENERAL CLAUSES BILL.

The Hon'ble MR. SCOBLE also moved that the Report of the Select Committee on the Bill for further shortening the language used in Acts of the Gover-

nor General in Council, and for other purposes, be taken into consideration. He said:—

"This [is in continuation of the Act passed in 1868 for avoiding the repetition in every Act of this Council of certain formal clauses and definitions which are necessary to secure the proper operation of those Acts. The Bill which I now ask the Council to pass is the result of eighteen years' experience in the Legislative Department. It has been very carefully considered both in the Legislative Department and by the Select Committee, and I think it will prove a very useful addition to the Statute-book."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

#### SEA CUSTOMS ACT, 1878, EXCISE ACT, 1881, AND TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR A. COLVIN moved that the Bill to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN moved that in section 9 of the Bill, line 2, after the word "Act" the following words be inserted, namely:—

"(a) 'Rs. 5' shall be substituted for 'Rs. 4' in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of 'Liqueurs'; and

"(b) ".

He said it had been brought to his notice, subsequent to the introduction of the Bill last Friday, that while the rate of duty on imported liquor was raised from Rs. 4 to Rs. 5, mention of liqueurs had been omitted. In the previous Act the duty on liqueurs was the same as on other imported liquor. The object of the amendment was to restore the former state of affairs.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN said:—"I have to move an amendment having for its object the further raising of the import-duty on perfumed spirits. It has been urged upon me since the last meeting of this Council that to maintain the duty on perfumed spirits at Rs. 6 per imperial gallon will not entirely attain the object we have in view, which is to put an end to this illicit trade in liquor in the guise of perfumed spirits, and that we must not only impose the duty on all perfumed spirits, in whatever quantity imported, but must also raise it. In England the rate on perfumed spirits is 16s. 6d. as against 10s. 5d. on ordinary spirits, or more than half as much again; and it is now proposed to impose on perfumed spirits a rate of Rs. 7-8 instead of Rs. 6, which was the original figure in the Bill, as against Rs. 5, the duty to be imposed upon ordinary spirits. The amendment, therefore, which I have to propose is that Rs. 7-8 be substituted for Rs. 6 in section 9 as the rate of duty to be levied and collected per imperial gallon or six quart bottles on perfumed spirits whether in wood or in bottles."

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN said:—

"I have another word to add, before proposing that the Bill be passed, with reference to a representation which reached me this morning from one of the principal firms connected with the importation of European liquor from which I will briefly quote, adding what I have to say in reply to it. The firm say:—

'We respectfully beg to point out that the incidence of the duty is 25 per cent. more than on that now levied, and that no case spirit (that is, in bottle) is imported at any thing like the strength, 25 per cent., under London proof to which the duty is proposed to be augmented. Consequently the enhancement is virtually an additional impost on the spirit trade. As an illustration we mention Hollands gin, which is usually imported in cases of 15 squares measuring 4 gallons (nearly) per case, the spirit being London proof. This gin costs 11s. (eleven shillings) per case or, at 1s. 5½d. per rupee, Rs. 7-7,



and already pays the enormous duty of Rs. 16 per case, or more than double its value. The increased impost at Rs. 5 per imperial gallon will be equal to Rs. 20 per case, or very nearly three times cost price of gin.

'As we understand the object of the additional impost on a sliding scale was to give relief to importers of spirits under London proof, it will be seen that such object is greatly nullified by the enhancement of the duty, which becomes tantamount to an additional burthen on the spirit trade.

'We believe the exigencies of the State do not call for the additional duty, and, if the measure is not intended to be one of relief, the reason of it is unnecessary.'

"It has never been denied that the enhancement of duty is virtually an additional impost on the spirit trade, but the grounds upon which it was found necessary to make that enhancement were, I hope, sufficiently explained at the last meeting of the Council, and will be found carefully stated in the remarks which I made on that occasion. The object of the Government, as I then stated, was not to increase the excise-revenue, but to meet the representations which the Trade had put before it, and the abuses which had come independently to its knowledge, by arranging that the excise-duty should fall equitably upon all classes of imported liquor, while its own revenue should be subjected to no loss. With every desire to meet the wishes of those who are engaged in the import of European liquor, it is impossible, for the reasons which I gave at the last meeting of this Council, to make any other arrangement than that which I propose, which shall at once guard the trade from improper advantage being taken of the mode in which the duty is levied and protect the Government revenue. I now move that the Bill, as amended, be passed."

The Motion was put and agreed to.

#### INDIAN EVIDENCE ACT, 1872, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872, be taken into consideration. He said:—

"This is a short Bill for the purpose of giving to revenue-officers in the discharge of their duties when conducting prosecutions before Magistrates the same protection as is now given to police-officers. It was found very necessary, in the prosecution of offences against the revenue laws, that revenue-officers should not be compelled to disclose, upon cross-examination, the names of the informers upon whose information the authorities have acted, and the object of this Bill is to give that protection to revenue-officers. As the Bill was originally drafted, the protection given to revenue-officers appeared to the Select Committee to be rather too wide. In the Bill as amended it is proposed to give that protection only in cases in which they are called upon to give evidence in regard to infractions of the revenue laws."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

#### INDIAN MUSEUM BILL.

The Hon'ble MR. PEILE moved that the Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, be taken into consideration. He said:—

"The objects of this Bill were explained to the Council by Sir Steuart Bayley in May last when he obtained leave to introduce the Bill. They are briefly—first, to alter the constitution of the Trustees of the Museum as fixed by Act XXII of 1876, and to provide for the representation of the Government of Bengal in that body; next to empower the Trustees to take over from the Bengal Government the custody of certain collections; and thirdly, to empower the Trustees to deliver over to the Bengal Government certain lands defined in the schedule and now possessed by the Trustees for the purposes of the Trust. The amendments proposed by the Select Committee are two: one of these is in section 5, by the substitution for the words 'from India' of the words 'from the meetings of the Trustees', in order to increase the efficiency of that body. The other amendment is in section 6, by the addition of the words 'all or any part of', so as to enable any part of the property mentioned in the schedule to be dealt with as desired."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also moved that the Bill, as amended, be passed.  
The Motion was put and agreed to.

#### INDIAN MARINE BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved for leave to introduce a Bill for the better administration of Her Majesty's Indian Marine Service. He said :—

"The object of this Bill is so fully stated in the title that it is not necessary for me to trouble the Council at any length in introducing it. But I may briefly explain that its object is to give legal sanction to the establishment of the body which is now known as the Indian Marine Service. This service, although under its present constitution it has had an existence of only about ten years, is really the outcome of a very much older body. A marine service of some sort has been in existence in connection with the Government of India ever since the British have had territorial jurisdiction in any part of the country. The service which performed the duties of a marine service was constituted considerably more than a hundred and forty years ago, and was employed in connection with the Royal Navy in all the various operations which have taken place at sea or land through that time. It was not until 1798, however, that any distinct designation was given to the service. It was then, under the authority of the Court of Directors, denominated the Bombay Marine. I am speaking of that part of the service which was employed on the western side of India; but although the officers composing it had on board their different vessels a sort of recognized authority, even then no legal sanction was given to the constitution of this service. But in the year 1830 the Court of Directors of the East India Company, by the authority vested in them under various Acts of Parliament, declared this body to be the Indian Navy. It then became for the first time a recognized combatant service, and the officers composing it took rank with the officers of the Indian Army, having like them local rank, and also with the officers of the Royal Navy, ranking next below them. This Indian Navy was, as I have said, a combatant body, and was largely employed in various maritime operations not only in the Indian seas, India, but in China and elsewhere, when the East India Company were engaged in maritime operations. It seems open to question, however, whether this force had any competent jurisdiction on the high seas; although the East India Company had power under the law of England to raise forces and employ them in the East, it appears at least doubtful whether they had any authority to employ vessels of war upon the high seas. But however that might be, the authority was never questioned, and this force did excellent service both on sea and land until the date of the transfer of the administration of the Government of India from the East India Company to the Crown, when it was determined that while the local constitution of the Indian Army should be transformed, this Indian Navy Service should be abolished. And accordingly in 1863 this service, in one form or another of more than 150 years' standing, came to an end—a service, I may observe, which was not only most useful, but was an extremely economical service. Well, although the Indian Navy was abolished, it was found immediately necessary to have a Marine Establishment of some sort to carry on various services, such as the transport of troops from port to port, and so forth, and for guarding those maritime possessions which could not be taken care of by the Royal Navy to the full extent; and accordingly a Bombay Marine Service was established for the west of India, which continued in force until the year 1877 under the Government of Bombay. This service was essentially a non-war service, but was mainly employed in civil duties in connection with the Government. On the eastern side of India, moreover, there has been also, from the earliest times, a Bengal Marine Service; and although it has never had any definite recognition from the East India Company or from any other authority, it has been at different times largely employed in very useful service, including the China War of 1842 and other operations. That service continued under the name of the Bengal Marine until the year 1877, when it was determined to amalgamate it with the Bombay Marine, and the whole became an amalgamated service. That is the service with which we are now concerned. This service, as I have explained, has at present no legal sanction, because it does not come under the Mercantile Marine Act, nor does it come under the Acts applicable to the Royal Navy. Nevertheless, it has done very useful public service and has got on very well without any definitive legal status. And it may be explained that the reason

for this Bill is not in consequence of any alleged misconduct or want of good discipline on the part of the Indian Marine, because the Government has had every reason to be quite satisfied with the conduct of both officers and men, but simply to supply what is an anomaly in its present constitution. The fact is that the Indian Marine, I may say, reflects, in a kind of indefinite way, the result of the discipline of the bodies with which it was associated, namely, the Army and the Royal Navy. It was well observed by Mr. John Stuart Mill that it is not the people who have recourse to Law Courts who benefit most by them, but the people who have no need to go to law who are really benefited by the Law Courts. And so you may say that the Indian Marine, although it has no law of its own, has derived a great deal of benefit from the regulations and laws which govern the bodies—the Army and the Navy—with which it is associated. But it is certainly desirable that it should become a legally recognized body; and accordingly Her Majesty's Government introduced into Parliament in 1884 and passed into law a Bill which empowered the Indian authorities to make laws and regulations for the good government of the Indian Marine. That is the object of the present Bill, which in form closely resembles the clauses of the Marine Discipline Act and the Articles of War which govern the Royal Navy. This Bill will only have effect in Indian waters, the Red Sea, and east of the latitude of the Cape of Good Hope, just as in the olden times it was not contemplated that the service should be employed outside Indian waters. Further, the duties of the service are contemplated to be of a non-warlike character, such as the transportation of troops, the suppression of piracy and generally the police of those parts of the seas which are not reached by Her Majesty's ships. But the Bill also provides, and the enabling Act of Parliament also provides, that in case of war the whole service, if necessary, should come under the authority of the Royal Navy, and should in fact for the time form part and parcel of the Royal Navy, qualified to act as a combatant force."

The Motion was put and agreed to.

The Hon'ble MAJOR-GENERAL CHESNEY also introduced the Bill.

The Hon'ble MAJOR-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort Saint George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 28th January, 1887.

S. HARVEY JAMES,

*Offg. Secretary to the Govt. of India,  
Legislative Department.*

FORT WILLIAM; }  
The 21st January, 1887. }



# The Gazette of India.

PUBLISHED BY AUTHORITY.

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CALCUTTA, SATURDAY, FEBRUARY 5, 1887.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 28th January, 1887.

### PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble R. Steel.  
The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Rana Shankar Baksh Singh Bahadur, C.I.E.  
The Hon'ble Syud Ameer Hossein.  
The Hon'ble Peári Mohan Mukerji.  
The Hon'ble W. S. Whiteside.  
The Hon'ble G. H. P. Evans.

### INDIAN MARINE BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved that the Bill for the better administration of Her Majesty's India Marine Service be referred to a Select Committee consisting of the Hon'ble Messrs. Peile, Scoble and Whiteside and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

### SUITS VALUATION BILL.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

The Secretary, with the permission of His Excellency the President, read the following remarks by the Hon'ble RANA SHANKAR BAKSH SINGH, as the Hon'ble Member would not be able to attend the next Meeting of the Council.

"My Lord,—With your Lordship's permission I beg to offer a few remarks on the Bill now before Your Excellency's Council.

"There is nothing in the present Bill which is open to objection or which calls for criticism.

"The main object of the Bill seems to be to obviate difficulties in estimating the value of the subject-matter of suits for the purpose of determining the jurisdiction of Courts with respect thereto. It not unfrequently happens that the lower Court, under-estimating the value of the subject-matter of a suit brought before it, considers that it falls within its jurisdiction, while on appeal the appellate Court holds that the lower Court had no jurisdiction and reverses its decision solely on this ground. The result is that all the proceedings gone through and the evidence produced by the parties concerned are rendered useless, and the case has to be re-tried by a Court of competent jurisdiction. It also happens that the plea of want of jurisdiction, although it was not put forth in the lower Court, is urged in the appellate Court, which—finding from the record of the case that, in trying a suit the value of the subject-matter of which was too high, the lower Court had really exceeded the limits of its jurisdiction—sets aside its decision, and the whole proceeding is quashed.

"Sometimes the case is remanded by the appellate Court to be re-tried with special reference to the value of the subject-matter, and then, finding that the suit as regards the value of the property in dispute was beyond the jurisdiction of the lower Court, the appellate Court cancels the whole proceeding and directs the case to be re-tried by a Court of competent jurisdiction.

"These, my Lord, are the most obvious instances in which the law, as it now stands, fails to accomplish its object, and to remedy such defects, legislation on the lines of the present Bill seems to be necessary.

"The Bill gives Local Governments the power to make rules regarding the mode of estimating the value of the subject-matter of suits. This is necessary, because different rates prevail, not only in different provinces, but in the different parts of the one and the same province, and because no definite provisions could be made in the Bill itself for estimating the value of the subject-matter of suits in different provinces or parganas for the purpose of determining the jurisdiction of Courts; more especially the value of land is always fluctuating, which makes it all the more necessary to invest Local Governments with the power to make rules after duly considering the different local conditions and the various and constantly varying rates prevailing in different localities, and from time to time to alter or modify the rules thus made, so as to make them applicable to land of different descriptions and capacities and to other property of which the value is always rising and falling.

"The present Bill, as amended by the Select Committee, fairly promises to fulfil the object with which it has been framed and brought before this Hon'ble Council."

### MILITARY COURTS OF REQUESTS ABOLITION BILL.

The Hon'ble MAJOR-GENERAL CHESNEY presented the Report of the Select Committee on the Bill to abolish Military Courts of Requests as established by Indian Military Law.

### CRIMINAL PROCEDURE CODE, 1882, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Bill to amend the Code of Criminal Procedure, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill be passed. He said :—  
"It has not been considered necessary to refer the Bill to Select Committee, as it consists of only two sections which involve no question of principle at all, but merely render the administration of the criminal law more convenient under the existing Act. The first section deals with the definition of 'Officer in charge of a police-station,' and the object of the amendment is to enable the business of the police-station, which is very often a considerable area, to be dealt with under all circumstances and at all times whether or not the chief officer in charge happens to be present at the police-station at the time the charge or application is made. The second section of the Bill simply relates to special jury panels in the three Presidency-towns. It has been found in Calcutta that the special jury panel is not as constituted under the Act of 1882 sufficiently large to ensure the attendance of special jurymen without causing inconvenience to the classes from which special jurors are selected, and this Bill substitutes 400 for 200 as the number of gentlemen liable to be summoned as special jurymen. I think both these amendments will facilitate the administration of justice, and there is no objection whatever raised to them, although the Bill has now been for some time before the public. I, therefore, beg leave to move that the Bill be passed."

The Motion was put and agreed to.

The Council adjourned to Friday, the 11th February, 1887.

S. HARVEY JAMES,

*Offg. Secretary to the Govt. of India,  
Legislative Department.*

FORT WILLIAM; }  
*The 1st February, 1887.*





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## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 11th February, 1887.

### PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble R. Steel.  
The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Syud Ameer Hosein.  
The Hon'ble Peári Mohan Mukerji.  
The Hon'ble W. S. Whiteside.

### INDIAN COMPANIES ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. He said:—

"It will be in the recollection of the Council that the origin of this small Bill was a suggestion from the High Court of Bombay that, where a company went into liquidation under the Companies Act, the clerks, labourers and workmen of the company should have priority in respect of their wages over other creditors. The Select Committee in considering the matter came to the conclusion that in dealing with this question of giving priority to one class of creditors the general question of priority in respect of public claims should also be considered; they have therefore amended the Bill so as to give priority to all claims of the Crown, which perhaps it was not absolutely necessary to provide for by legislation, and also to give priority to rates and taxes due to local and municipal authorities. The Bill therefore gives priority to all revenue, taxes, rates and cesses payable to Her Majesty or to any local authority which have become due within twelve months before the date of liquidation. In regard to the primary object of the Bill, namely, the salaries of clerks and the wages of servants and workmen, the Committee thought it wise to adopt a suggestion of the Bengal Chamber of Commerce and the Calcutta Trades Association, who pointed out that in this country the salaries of clerks and the wages of servants and workmen do not approximate so closely as they do in England. The Bill has been therefore amended by empowering clerks and servants to recover salaries to an amount not exceeding Rs. 1,000, and labourers and workmen to recover wages to an amount not exceeding Rs. 500, in respect of services rendered within two months before the date of liquidation. With these amendments, which I think will commend themselves to the approval of the Council, I move that the Bill be passed."

The Motion was put and agreed to.

#### PROVINCIAL SMALL CAUSE COURTS BILL.

The Hon'ble MR. SCOBLE also presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

#### NATIVE PASSENGER SHIPS BILL.

The Hon'ble SIR A. COLVIN presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships.

#### LOWER BURMA COURTS BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to consolidate and amend the law relating to Courts in Lower Burma. He said:—

"The defective constitution of the Special Court, the increase of business in the Court of the Recorder of Rangoon, and the complaints which have been made respecting the finality of the decrees and orders of the Recorder in some cases, and respecting the delay and expense involved in appeals to the High Court at Calcutta in other cases, having rendered necessary a revision of the existing arrangements for the administration of justice in Lower Burma, the Government of India has decided, with the sanction of the Secretary of State in Council, to constitute at Rangoon a Chief Court on the model, so far as practicable, of the Chief Court at Lahore.

"The main object of this Bill is to give effect to that decision.

"It is proposed by the Bill to abolish the Court of the Recorder, the Court of the Judicial Commissioner and the Special Court, and to establish in their place a Chief Court which will be for Lower Burma the Court of ultimate resort in India.

"The Chief Court is to consist of three or more Judges, of whom one at least must be a barrister of five years' standing. That Judge will be styled Recorder, and one of the other Judges will be styled Judicial Commissioner. The other

Judge or each of the other Judges, as the case may be, is to be appointed as a Recorder or as a Judicial Commissioner, as the Governor General in Council sees fit. The Recorder or Recorders will ordinarily exercise the original jurisdiction of the Court and such other jurisdiction as has reference to the Town of Rangoon, while the Judicial Commissioner or Judicial Commissioners will ordinarily exercise the appellate and revisional jurisdiction of the Court in reference to the Courts subordinate to it beyond the limits of the Town of Rangoon, and discharge with respect to those Courts the functions of superintendence which are vested in the Chief Court.

"That is the main object and purpose of the Bill; the other provisions are really subsidiary, and I think I shall only unnecessarily occupy the time of the Council if I go further into details at this stage with regard to this Bill."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

#### SUITS VALUATION BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. He said :—

"When my learned friend Mr. Ilbert in August last introduced this Bill, he described it as a little Bill of no great importance. I think I may accept that definition with the addition of the words 'except to litigants in the Civil Courts.' As the Council is no doubt aware, when a suit is brought in a Civil Court, it becomes necessary to value the subject-matter of that suit for two purposes—first to ascertain the amount of the stamp-duty to be levied upon it under the Court-fees Act, and secondly for the purpose of ascertaining the Court within whose jurisdiction the suit properly falls. It might perhaps appear at first sight that the one valuation should answer both purposes. But that has not been found to be the case, particularly in regard to suits concerning land. It has been laid down by the High Courts in many decisions that the law may well establish for purposes of revenue certain fixed rules as to the valuation of suits; but such valuation obviously cannot be accepted as a criterion of a matter of fact such as the actual amount or value of a claim upon which the jurisdiction of the Court depends. That being so, and the Courts having declined to accept the court-fees valuation as available for the purposes of jurisdiction, it might be suggested that it would be desirable by legislation to enact that one valuation should suffice for both objects. That has been attempted in the Presidency of Madras, but there it has been found that the court-fee system of computation, being based upon an arbitrary multiple of the revenue paid in cases where land was the subject of litigation, admits of great inequality of taxation and is not consistent in principle; and the Government of Madras has reported that suits for land in that presidency were greatly under-valued, with the result that Munsifs, while nominally disposing of suits only valued at Rs. 2,500 or less, were in fact deciding cases which involved much higher values. The Government of Bengal have also expressed their opinion that in practice the revenue of an estate affords no clue whatever to its value, and, in any

system under which the jurisdiction of Courts is settled by the amount of revenue payable by an estate, it is decided at haphazard. Therefore, with regard to land-suits, I think the Council will be of opinion that some other system than that established by the Court-fees Act ought to be admitted in order to ascertain the value of a suit for purposes of jurisdiction, and there appears to be a general consensus of opinion that the market-value of the land ought to be taken as such value. The difficulty, however, arises as to how that market-value is to be simply, cheaply and expeditiously ascertained. In a country like this it is found practically impossible to discover any uniform rule which would apply to all parts, and it has, therefore, been proposed in this Bill to leave it to the Local Governments to make rules for determining the value of land for the purposes of jurisdiction in suits relating to land.

"The first part of the Bill relates to such suits, and it provides that the Local Government may, with the previous sanction of the Governor General in Council, and after consultation with the High Courts or other chief judicial authorities within the province, make rules for the purpose of determining the value of land in local areas according to the general or special circumstances of the district. And it provides that these rules shall be published so as to give the opportunity of criticism upon them before they come into effect.

"The second part of the Bill relates to suits other than suits for land, and it lays down the simple rule that the valuation which is made for the purposes of the Court-fees Act in such suits shall be the valuation adopted for purposes of jurisdiction.

"The third part provides a special procedure for cases on which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an Appellate Court.

"The first part of the Bill, I may say here,—and I do so because one of my hon'ble colleagues on the Select Committee, though thinking that the Bill is well framed for the purpose it is intended to serve, does not see the necessity for it,—the first part of the Bill is permissive, and I think that consideration meets the objection which the Hon'ble Mr. Mandlik has made to it. He says that in Bombay the Bill is not necessary. If that is so, it is very easy for the Government of Bombay not to make any rules under it, and to go on with their old system. But if it should chance at any time that the Government of Bombay find it desirable to make rules, they will be at liberty to do so. In other parts of the country the High Courts and local authorities are in favour of it. Where it is unnecessary, it will do no harm: where it is put in force, I hope it will do a great deal of good."

The Motion was put and agreed to.

#### MILITARY COURTS OF REQUESTS ABOLITION BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved that the Report of the Select Committee on the Bill to abolish Military Courts of Requests as established by Indian Military Law be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MAJOR GENERAL CHESNEY also moved that the Bill, as amended, be passed. He said:—

"I may explain to the Council that the amendments which have been made by the Select Committee are only of a verbal character. Enquiries which were made by the Select Committee have satisfied them that if this Bill is passed into law creditors would still have sufficient remedies against their debtors in the ordinary Courts of the country: the jurisdiction which the Civil Courts now possess is sufficiently extensive to enable the operation of the Military Courts of Requests to be suspended. I may also explain that if this Bill is passed into law it will not affect the Native officer, as his case is provided for by the British Army Act. The Bill will apply to soldiers of the regular forces

within the meaning of the Act, that is to say, to private soldiers and non-commissioned officers; a Native of India, who is a soldier or non-commissioned officer of the regular forces within the meaning of the Act, will be liable to be sued in any Civil Court having jurisdiction under Chapter II of the Code of Civil Procedure, but with the limitation provided by the British Army Act of 1881 that, unless the debt exceeds £30, exclusive of costs, a soldier shall not be compelled to appear in that Court. Secondly, under the Indian Articles of War, whatever the amount of the debt may be, a soldier may not be arrested under any process issued by a Civil Court. Lastly, under the British Army Act, under the Indian Articles of War and under the Code of Civil Procedure, if a Civil Court passes a decree against a private soldier or a non-commissioned officer, execution cannot be had against his pay and allowances or against his arms, accoutrements, regimental necessaries or equipments. These are provisions which the Bill before the Council does not touch."

The Motion was put and agreed to.

#### PUNJAB TENANCY BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Peile be substituted for the Hon'ble Sir S. Bayley as a Member of the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab and that the Mover be added to the Committee.

The Motion was put and agreed to.

#### PUNJAB LAND-REVENUE BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Peile be substituted for the Hon'ble Sir S. Bayley as a Member of the Select Committee on the Bill to declare and amend the Land-revenue Law of the Punjab and that the Mover be added to the Committee.

The Motion was put and agreed to.

The Council adjourned to Friday, the 25th February, 1887.

S. HARVEY JAMES,

*Offg. Secretary to the Govt. of India,  
Legislative Department.*

FORT WILLIAM;  
The 15th February, 1887. }



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## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House, on Thursday, the 24th February, 1887.

### PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.  
His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., K.C.I.E., R.A.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble R. Steel.  
The Hon'ble Sir W. W. Hunter, K.C.S.I., C.I.E., LL.D.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Colonel Sir W. G. Davies, K.C.S.I.  
The Hon'ble Syud Ameer Hossein.  
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.  
The Hon'ble W. S. Whiteside.  
The Hon'ble G. H. P. Evans.  
The Hon'ble J. W. Quinton, C.S.I.

### PROVINCIAL SMALL CAUSE COURTS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns be taken into consideration.

The Motion was put and agreed to.



The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. He said:—

"I think I need detain the Council only very shortly with reference to this Bill. The main object of the Select Committee in dealing with this Bill was to bring the Provincial Small Cause Courts, which are undoubtedly rendering very effectual service to the administration of justice throughout the country, into line with the Civil Courts generally; and we have therefore provided that these Courts should be under the administrative control of the District Judges and subject to the superintendence of the High Courts. We have also established a system for the appointment, promotion and discipline of ministerial officers. With regard to the jurisdiction of the Small Cause Courts, the provisions of the original Act, XI of 1865, gave rise to a great deal of litigation in order to determine whether a suit was or was not of a nature cognizable by a Court of Small Causes. We have endeavoured for the future to avoid that difficulty by specifying in a schedule the suits over which these Provincial Small Cause Courts shall not have jurisdiction, thereby giving jurisdiction in all cases which are not thus excepted. The third point of importance to which I think it necessary to call the attention of the Council is this. A recent decision of the Privy Council has given a very restricted interpretation to section 622 of the Code of Civil Procedure, and has limited the revisional power of the High Courts only to cases in which an error in the exercise of jurisdiction has been committed, thereby leaving it competent to inferior Courts to commit manifest mistakes of law without the possibility of such mistakes being corrected by a higher tribunal. We have drawn section 25 of the Bill so as to restore to the High Courts the jurisdiction which for many years they were believed to possess and which it is very desirable they should continue to exercise, and we have enacted that the High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

"These are the principal features of the Bill to which I think it necessary to draw attention. The other sections are devoted to the provision of an efficient method of carrying out the duties which devolve upon these Courts. They are Courts which I believe are very much appreciated in the country, and their working has I believe been highly conducive to the good of the people, who have thereby been able to obtain speedy and substantial justice. And I think the best proof of the popularity and usefulness of these Courts is to be found in a return which I have obtained from the two Presidencies of Bengal and Madras, from which it appears that 30 per cent. of the civil suits dealt with by the Courts in 1885 in the Bengal Presidency were tried and disposed of by Small Cause Courts, and in the Madras Presidency 32 per cent. of the cases were similarly disposed of."

The Hon'ble SIR WILLIAM W. HUNTER said:—

"My Lord, I have closely watched the passage of this Bill through its various stages. For it belongs to a class of measures which, with the best intentions on the part of their framers, sometimes produce unexpected results. I confess that I never see a consolidating or codifying Act launched from this central legislature, without grave anxiety as to its practical operation in the varied Provinces, and among the diverse populations, whom it will, for good or for evil, affect. The details of the measure have already been fully explained, together with the changes which have found a place in it. I shall, therefore, detain the Council with only a few remarks on certain of its more general aspects.

"This measure marks the end of what may be termed the experimental stage of Small Cause Court legislation in India. I well remember the apprehension which was felt when those tribunals began to be generally introduced into the rural districts of Bengal. To most judicial officers, and to a large section of the public, it seemed a perilous experiment to dot the districts with Courts from whose decision there was, in the majority of cases, no appeal. The system might work well enough in large towns, it was said, under the safeguard of a vigilant public opinion, but it was a dangerous one for remote country places. How completely these apprehensions have been falsified it is not needful for me to relate. I believe that no class of officers have done so much, during the past quarter of a century, to render legal redress easy, speedy and cheap in the ordinary transactions between man and man, as the Judges of the Small Cause

Courts. They found the system an experiment. They have made it a success. The present Bill takes up the system at this latter stage. It extends and simplifies the powers of the Small Cause Courts, it incorporates them more closely into the regular judicial organisation of the country, and it brings their ministerial officers into line with the ministerial officers of the general administration. In no particular section will any large or violent change be discovered. But it will be found, I think, in practical working, that the Bill as a whole has the effect which I describe.

"In so doing the Bill only gives formal effect to the fact that the experimental stage of the Small Cause Court system in India is now a thing of the past. The Bill clears away as far as possible the growth of conflicting decisions which have gradually overlaid the old law, and the causes of the conflicts. But in so doing, and in its general tendency to consolidation, it has had to reject as well as to accept the views of local authorities, whose opinions are well entitled to respect. It may possibly be that some of those views have been unwisely rejected, and that local inconvenience may in consequence arise. That is a danger which besets every consolidating Act that emanates from this central chamber. But I wish to bear testimony to the patience and care with which all local opinions have in this case been weighed. The *précis* of those opinions alone forms a folio volume of 195 pages. Apart from the consideration given to these opinions by your Lordship's Executive Council, each member of the Select Committee has had his attention specifically directed to every opinion which has been received by Government under each section of the Bill; and each opinion has been discussed, section by section, by the Select Committee as a whole. Throughout the five years during which I have had the honour of sitting in this Council, I have never acted on a Select Committee in which so large a mass of evidence has been more thoroughly sifted, or in which more care has been taken to inform the non-official members (if I may so designate myself *ad hoc*) of the views of the local officers, or to satisfy them that the right course has, in each case of conflict, been selected. While, therefore, the Bill must be acknowledged to be subject to the chances of local inconvenience which attend all attempts at consolidation and codification, I think that those chances have in the present measure been reduced to a minimum. I believe that the changes which it effects are justified by the facts: that they will extend the usefulness of the Courts; and that they will improve the position and the prospects of the ministerial officers."

The Motion was put and agreed to.

#### LOWER BURMA COURTS BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to consolidate and amend the law relating to Courts in Lower Burma be referred to a Select Committee consisting of the Hon'ble Messrs. Peile and Whiteside and the Mover.

The Motion was put and agreed to.

#### NATIVE PASSENGER SHIPS BILL.

The Hon'ble SIR A. COLVIN moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also moved that the Bill, as amended, be passed. He said:—

"In moving that this Bill as amended be passed I have only to add that the Select Committee have so arranged the clauses of the Bill as to provide for the various objects for which, as explained at the time, it was introduced, and that the Report of the Select Committee briefly embodies all the information necessary. But I may draw more particular attention perhaps to two sections in which we have sought to provide for the greater convenience of the classes of passengers to whom this Bill applies. The first of these is section 30, sub-section (1), which provides that the Local Government may direct that no passenger shall be received on board any ship or any ship of a

specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place and in such manner as the Local Government may fix in this behalf, by a medical officer to be appointed by the Government for the purpose. The object of the introduction of this provision is with special reference to the convenience of Native ladies who may happen to be passengers, and to obviate the recurrence of cases which have at various times arisen, in which causes of complaint have been brought to the notice of the Government, which, in the absence of any such provision, was unable to take the measures necessary to guard against their recurrence. The other point is with reference to section 53, clause (a) (b), which gives the Local Government power to make rules to regulate the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board; the object of this provision again being to meet the case of Native passengers arriving at and being detained in some outport of embarkation, during which time the provisions which they have brought with them for the journey are gradually consumed, and they themselves subjected to very serious inconvenience and discomfort. We have therefore given the Local Government power to provide for the departure of a ship within a given time, so that the passengers may not be put to needless inconvenience. I do not think it is necessary for me to say anything further in reference to the Bill, the Report of the Select Committee disposing of anything further to which it is necessary that attention should be called."

The Motion was put and agreed to.

#### PUNJAB TENANCY BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Quinton be added to the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab.

The Motion was put and agreed to.

#### PUNJAB LAND-REVENUE BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Quinton be added to the Select Committee on the Bill to declare and amend the Land-revenue Law of the Punjab.

The Motion was put and agreed to.

#### GUARDIANS AND WARDS BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Quinton be added to the Select Committee on the Bill to consolidate and amend the law relating to Guardian and Ward.

The Motion was put and agreed to.

#### SINDH-PISHIN RAILWAY BILL.

The Hon'ble SIR THEODORE HOPE moved for leave to introduce a Bill to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway. He said:—"I may commence by explaining that the North-Western Railway is the name which we now give to the entire system of railways on our North-Western frontier, which up to two years ago was composed of several totally disconnected and partially incomplete parts. The Sindh, Punjab and Delhi Railway Company held a very large section, that is to say, from Delhi down to Multan, and again from Kotri down to Karáchi; the Government holding the line from Lahore up to Pesháwar, and again from Multan down to Kotri, and also the very large loop line called the Sindh-Saugor Railway, together with a very important work, partly completed and partly under construction, designed to connect the Province of Sindh with the plateau of Pishin and Biluchistan. It was considered necessary for administrative purposes that the whole should be consolidated into one administration, in order that, if complications should at any time arise, then the entire regulation of the traffic might be in the

hands of the Government without question; and this has now been effected, the Sindh, Punjab and Delhi Company's Railway having been acquired, and the whole brought under one responsible head. This railway comprises several sections, and one of these is the subject of the Bill which I have now the honour to lay before the Council. The Sindh-Pishin section starts from the province of Sindh, and it reaches the elevated plateau of Pishin by two distinct routes: one portion may be called the Harnai, as it goes up the Harnai Valley, and reaches the plateau by that way; but besides that there is another line which is called colloquially the Bolan Railway. Both are in reality a section of the North-Western line. This entire North-Western line is naturally liable to be placed under requisition for military purposes, but it is not considered necessary at present to reserve any special power over the traffic on that account, except on the comparatively small portion which leads to the most important part of the southern frontier. It is obvious that, should complications take place, the small necks of line passing up there must necessarily be entirely taken up by the movement of large bodies of troops and stores, and could not afford any accommodation to the public at all. But, besides this, the Sindh-Pishin section has another special feature with perhaps a more direct bearing on the object of this Bill than the other; that is to say, that both these two routes which I have mentioned—the Harnai and the Bolan routes—pass through very stupendous mountain gorges, first of all at the bottom and secondly near the top. Now, in fact, each of these is what is termed in Europe a regular mountain line, displaying the very highest engineering skill, and most difficult works, which I venture to say have been constructed in the most admirable manner. However well such lines may be constructed, they are obviously very difficult to complete satisfactorily, and are liable to interruptions, specially at the outset, and until the works have become thoroughly settled and the capricious action of the mountain streams has been thoroughly understood and mastered. Those who are in the habit of going to Darjiling must be aware that landslips occur both from above on to the line, and in portions below the line, and that not unfrequently stoppages of the traffic take place, and it has taken considerable expenditure for years to place the line in the satisfactory condition that it now is. Those of us who can look back further to the construction of the great Bhor and Thul Ghât lines will recollect that interruptions of this class were extremely frequent in the earlier times, and even led to accidents. On this account, if we were to pay very strict regard to the protection of the public, we might possibly hesitate to throw open these passes to the Pishin plateau, which have been lately completed, until they have been tried and had worked for a very considerable period. But, on the other hand, if we were thus to postpone their opening, we should impose upon the public of Pishin and Quetta very serious inconvenience and very heavy cost. The difficulty of reaching the Pishin plateau now is very great, and can only be thoroughly understood by those who have had the misfortune to be obliged to surmount it. The cost of all provisions and stores and of everything in Pishin is something utterly abnormal. I do not exaggerate when I say that servants who in ordinary places can be obtained at Rs. 10 a month are extremely difficult to get there at Rs. 25, owing to the isolation of the country. As soon as we can get this railway utilised, all these wages and also the high price of provisions and stores will be brought to their proper bearings. We think, therefore, that it is in the interest of the public, notwithstanding the risks that may be incurred, to throw the line open to them without further delay. At the same time, in order to make the public, on the one hand, fully aware of a certain amount of risk which they will incur, and, on the other hand, to protect the interests of the State, we propose to extend to this line only such portions of the existing Railway Act as are applicable to the particular circumstances of the case, and, moreover, to take power to limit the liability of the Government for losses on account of injury to person or property which may happen to those who make use of it. This limitation, however, it is not intended, I may say executively, to apply to the whole line. There are portions of it, for instance, the lower part, which are just as level as the plains of Bengal, and on that part no doubt, as also on the plateau, we should not desire to limit our liability, while we should apply these special provisions to such portions of the railway as they are really and reasonably intended for. As to the nature of those limitations, I may mention that what are contemplated will probably be simply of the same nature as those which are to be found in many portions of America. In the States of Massachusetts and New York there are railway laws which provide for a restriction of

the liability of the railway companies for losses to a certain fixed amount. I have therefore upon these grounds to solicit permission to introduce the Bill."

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE also introduced the Bill.

The Hon'ble SIR THEODORE HOPE having applied to His Excellency the President to suspend the Rules for the conduct of Business,

THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR THEODORE HOPE moved that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE then moved that the Bill be passed. He said :—" In explanation of putting the Bill through with this amount of urgency, I trust the Council will deem it sufficient if I say that the official inspection of the line previous to its being thrown open with special regulations for its safer working is now in progress; and as this is the opening of the season, the spring time, when we should naturally look to traffic after the winter being very considerable, it will be a great convenience to the public generally to use the railway with the least possible delay. It will also give sufficient time for the fact of the opening of the railway becoming known in the regions beyond Pishin, and promote caravan traffic during the present year, before the coming winter."

The Motion was put and agreed to.

The Council adjourned to Friday, the 4th March, 1887.

S. HARVEY JAMES,

*Offg. Secretary to the Govt. of India,  
Legislative Department.*

FORT WILLIAM; }  
The 2nd March, 1887. }

The Meeting fixed for the 25th February, 1887, was held on the 24th idem.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 4th March, 1887.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble R. Steel.  
The Hon'ble Sir W. W. Hunter, K.C.S.I., C.I.E., LL.D.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Colonel Sir W. G. Davies, K.C.S.I.  
The Hon'ble Syud Ameer Hossein.  
The Hon'ble Raja Peári Mohan Mukerji, C.S.I.  
The Hon'ble W. S. Whiteside.  
The Hon'ble J. W. Quinton, C.S.I.

BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL  
COURTS BILL.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam.

ELECTRICITY SUPPLY BILL.

The Hon'ble SIR THEODORE HOPE presented the Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes.

The Council adjourned to Friday, the 11th March, 1887.

S. HARVEY JAMES,  
*Offg. Secretary to the Govt. of India,*  
*Legislative Department.*

FORT WILLIAM ; }  
The 4th March, 1887. }





# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 19, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House, on Friday, the 11th March, 1887.

### PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.  
The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.  
The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.  
The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.  
The Hon'ble A. R. Scoble, Q.C.  
The Hon'ble J. B. Peile, M.A., C.S.I.  
The Hon'ble R. Steel.  
The Hon'ble Sir W. W. Hunter, K.C.S.I., C.I.E., LL.D.  
The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.  
The Hon'ble Colonel Sir W. G. Davies, K.C.S.I.  
The Hon'ble Syud Ameer Hossein.  
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.  
The Hon'ble W. S. Whiteside.  
The Hon'ble J. W. Quinton, C.S.I.

### BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam be taken into consideration. He said :—

"The Bill to which I now have to ask the assent of the Council was introduced by my learned friend the Hon'ble Mr. Stokes in 1881. Its object was to

consolidate the two existing Acts regarding the Bengal Civil Courts, taking advantage of the opportunity to remove certain administrative difficulties and make such changes in the wording of the law as the experience of the previous ten years had shown to be desirable. It was referred, in the usual course, to a Select Committee, and was circulated for opinion, and would probably have been passed into law some years ago but for a proposal to establish Appellate Benches in Bengal, which rendered it necessary to suspend its consideration.

"The Appellate Benches scheme, however, went the way of many similar proposals, and the Hon'ble Mr. Ilbert, in October last, finding himself the sole surviving member of the Select Committee on this Bill, presented a Report upon it, in which he recommended that it should be considered in connection with the Provincial Small Cause Courts Bill, and suggested that the two measures should be considered together, as far as possible, by the same Committee.

"This course has been adopted. The Provincial Small Cause Courts Bill was passed a fortnight ago, and I hope this Bill, which provides a system of Civil Courts for Bengal, the North-Western Provinces and Assam, will be passed today.

"There is not much in it, I think, to provoke adverse criticism. The lines of the Act of 1871 have been, in the main, adhered to; but we have, I hope, adopted every suggestion that pointed to a real improvement in the existing system. It would be tedious to go through an enumeration of the changes we have made: the test of an Act of this kind is in its working; and that, I trust, will prove satisfactory.

"Upon two matters, however, I think I ought to make a few observations.

"The first is that, by section 31 of the Bill, the power of appointing ministerial officers in the subordinate Civil Courts is conferred on the District Judge. There is no doubt a good deal to be said on both sides of this question, but on the whole argument, the advantage lies, in the opinion of the Committee, in favour of the plan which we have adopted. The case is well stated on the one side by Mr. Daniell, District Judge of Moradabad, who says—

'I consider it essential to the efficiency of the ministerial officers of the subordinate Civil Courts in a judgeship that a stream of promotion should be maintained from the lowest to the highest grade of these officials throughout the Judgeship. If this is secured, every hard-working man knows that there are several appointments to which he can aspire, the field for his promotion is widened, and he is more encouraged to do his work well than if he had only to look to the rare vacancies in a single munsifi for advancement. On the other hand, the Judge can promote any man from any one of several situations to any other that he may be qualified for in the whole judgeship, and a stimulus is provided to efficient and industrious work which is entirely absent if the Judge can promote no one but the officials of his own office, or if, in order to promote a deserving man in a munsifi, he is obliged to place him over the heads of other men in his own office, without being at the same time able to provide any of his own officials with a step on promotion in any of the munsifis subordinate to him.'

"This view is adopted by many other experienced officers, and is supported by the Governments of Bengal and of the North-Western Provinces. On the other side, Mr. Justice Chunder Madhub Ghose argues—and Mr. Justice Wilson and Mr. Justice Tottenham concur generally in his opinion—that although it may be very desirable, as Mr. Daniell says, that, for the efficiency of the ministerial officers of the Subordinate Courts, 'a stream of promotion should be maintained from the lowest to the highest throughout the judgeship,' and although it may also be very true that this serves as a 'stimulus to efficient and industrious work,' there is another view of the matter which demands much consideration. That view is thus stated by the learned Judge—

'That for the proper and efficient working of the establishments, it is essentially necessary that the officer who is responsible for the entire work should be left to select his ministerial officers. It is not suggested that the District Judge under the law now proposed should become more responsible than he is at present for the proper working of the establishments of the Subordinate Courts. The Judges of those Courts will continue to be as responsible as they are now, and yet they would be compelled to work with men whom, had they the option, they would decline to select. And if the proposed alteration in the law is carried out, I apprehend that it will tend to lower the prestige of the Subordinate Judiciary, and to create between them and their ministerial officers a state of feeling which it is desirable to avoid.'

"I may remark here that experience shows the learned Judge's apprehensions on this score to be unfounded. Under Act XIV of 1869, all ministerial

officers of the Civil Courts in each district in the Bombay Presidency are appointed by the District Judge; and the system has not been found either to lower the prestige of the Subordinate Judges, or to create undesirable relations between them and their establishments. The learned Judge goes on to say—

‘No doubt, it may serve as a stimulus to efficient and industrious work if a stream of promotion be maintained. But I am afraid that in very few cases only, if in any, can the District Judge, notwithstanding his annual inspection of the Subordinate Courts, even if regularly carried out, be in a position to acquire any sufficient knowledge of the real merits of the ministerial officers of these Courts; and the result will therefore be, if the proposed change in the law be carried, that the promotions made by the District Judge will in many cases be unsatisfactory. There is nothing under the present law to prevent some sort of rule of promotion being laid down in each judgship, under which recognition shall be secured of the claims of all deserving officers in the district on the occasion of a vacancy occurring in the higher appointments of any of the Courts; and it does not seem to me that the change as proposed would be a real improvement in that direction.’

“The conclusion to which the Committee came was that Mr. Justice Ghose had pointed out the real cure for any misapplication of the proposed system in the establishment of a settled ‘rule of promotion’; and that in these days of supervision and publicity there is little danger of a District Judge misusing the power conferred on him. Systematic jobbery is, let us hope, impossible: individual nepotism is more likely to occur. In practice, it will probably be found that though the Judge appoints, the Subordinate Judges and Munsifs will nominate, their ministerial officers. But as the final responsibility must rest somewhere, we think, in the interests of the public service, it ought to rest with the officer under whose administrative control the Courts are placed.

“The other point arises on section 36 of the Bill, as to which notice of two amendments has been given.

“The first of these, proposed by my learned friend the Hon’ble Mr. Evans, I am willing to accept with the slight modification of substituting ‘after’ for ‘in’. The second is brought forward by our hon’ble colleague, Rájá Peári Mohan Mukerji, and I will briefly state the effect of it.

“By section 36 of the Bill, it is provided that the Local Government may invest officers in the Chutiá Nágpur, Jalpaigori and Darjiling Districts, and in the greater part of Assam, with the powers of a Civil Court. The Upper Assam Sarbojanik Sova objects to this, on the ground that ‘the principle involved in investing executive officers with civil powers is altogether an unsound one,’ though they go on to admit that ‘its partial adoption in Assam till 1871 was no doubt justified to some extent by the undeveloped condition of the province and the paucity of officers.’ This justification, I am bound to say, still exists. In a letter of 11th February, 1887, which constitutes annexure No. 5 to this Bill, the Chief Commissioner writes that he—

‘thinks there is some force in the contention that the office of Judge and Commissioner of the Assam Valley Districts should not be combined in the same person; but the Government of India is well aware of the circumstances under which the two offices came to be combined. If they were now separated, the Judge would have very little work to do, and the Commissioner would also not have his time fully occupied. To separate the judicial and executive administration in the Assam Valley Districts or Cachar would entail additional expenditure of public money which would be wholly unjustifiable under the circumstances of this province. These districts are not sufficiently advanced for such a measure, and, moreover, the result of such separation would be to leave both executive and judicial officers with half their time unoccupied.’

“This answer appeared to the Committee conclusive, and I doubt not it will so appear to the Council. We must do our best with the means at our command. The Rájá’s amendment would involve an entire reconstruction of the civil administration of Assam, and this it would be foreign to the scope of this Bill to undertake.”

The Motion was put and agreed to.

The Hon’ble RAJA PEARI MOHAN MUKERJI moved that clause (a) and the word “other” in clause (b) of sub-section (1) of section 36 of the Bill be omitted. He said:—“The hon’ble and learned Law Member has tried to make out that the proposed amendment would introduce a radical change in the administration of the non-regulation provinces, but I still venture to think that my Motion involves only a very slight modification of one of the provisions

of the Bill. The Bill gives power to the Chief Commissioners of the non-regulation provinces to invest any officer in those provinces with the powers of the Civil Court, either of original or appellate jurisdiction. My amendment is that only such officers should be invested with judicial powers as shall come under a class to be defined by the Local Governments, with the previous sanction of your Excellency in Council, so that the powers of the Local Governments in the non-regulation provinces should be controlled in this respect in the same manner as the Bill provides for the control of the powers of the Local Governments in Bengal and the North-Western Provinces. In the non-regulation districts, where the extent of territory is large and the population sparse, it has long been found necessary, on financial and other considerations, to unite in the same officers executive and judicial functions; but it was truly observed by Mr. Justice Field, in a case relating to Assam, reported in I. L. R. 10 Cal. 915, that 'this union of duties is an abnormal state of things, and experience of its operation is not wanting in instances to show that, in the interests of justice, the discharge of judicial duties by an officer who also exercises executive functions cannot be too carefully watched.' In another case which involved a conflict between the revenue and the judicial authorities Sir Richard Garth observed in his judgment, reported in I. L. R. 9 Cal. 925, that 'if that is the state of the law in Assam I think the sooner the notice of the Supreme Government is called to it the better.' At present any officer, whatever might be his acquirements and the character of his training, may be invested with judicial powers. In fact, the latitude of selection is practically unlimited. We have been told by an Assam association, in a petition submitted to this Hon'ble Council, that a manager of a tea-garden, an agent of a carrying company, a military officer fresh from his regiment, or an accountant of the Public Works Department is vested with judicial powers the moment he is appointed an Extra Assistant or Assistant Commissioner. The case becomes worse when an officer having no judicial experience is vested with appellate powers and required by virtue of his office to affirm or reverse the decisions of experienced judicial officers. There could be no greater condemnation of such a state of things than is found in the remark of the Chief Commissioner of Assam made in September, 1885, that 'it is an anomalous state of things that civil appeals should in Cachar be disposed of by an officer, who probably never tried a civil suit in his life.' A system which allows of such appointments being made must be radically unsound. I do not for a moment wish to say that judicial appointments should never be given to any but experienced lawyers. Lord Lyndhurst looked out for a gentleman when he wanted a Judge. But, as regards the non-regulation districts, objection is taken not merely to investing with judicial power officers having no special training or experience, but also to the union of executive and judicial functions in the same officer. The amendment which I have moved would cause no great disturbance in the existing system. It would leave the Local Governments full discretion to select their officers from a defined class which should receive the sanction of your Excellency in Council, but it would nevertheless be a measure of reform which, without entailing any additional cost to the State, would materially lessen the force of the objections taken at present to the constitution of the judicial machinery in the non-regulation districts. My Lord, in delivering the judgment of the House of Lords in *Dimes v. The Proprietors of the Grand Junction Canal*, Lord Campbell took occasion to observe that in the administration of justice care should be taken to see not merely that justice is done, but that the very appearance of possible injustice is avoided. If such an assurance was necessary to satisfy the enlightened people of the British Isles of the purity of their judicial administration, how much more so is it in this country, where the vast majority of the population is steeped in ignorance, and where the policy of Governmental measures is so little understood?"

The Hon'ble SYUD AMEER HOSSEIN said:—"I do not quite see my way to support this amendment. In the first place, if my hon'ble friend carries his amendment, the effect will be that clause (a) will be omitted and also the word 'other' from clause (b), but the practical effect of the clause (a) will remain as it is; because clause (b) will enable the Local Government to invest, if necessary, any officer with the powers of a Civil Court. Section 1 of the Bill extends the Act to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories

as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, and except the Jhānsi Division. So all the territories mentioned in section 36, clause (a), are either within the jurisdiction of the Lieutenant-Governor of Bengal or the Chief Commissioner of Assam. I gather from the Report of the Select Committee that clause (b) was specially enacted to enable the Lieutenant-Governor of Bengal to invest those Civilians who have elected a judicial career with the powers of a Civil Court. But there is nothing in the wording of clause (b) to prevent any Local Government from investing any Assistant Commissioner or Deputy Commissioner in any district mentioned under clause (a) with the powers of a Civil Court. On the merits of the amendment I beg to say that the Government has in my opinion already done much to separate the judicial functions of officers from their executive functions. In Assam there is a Judge of the Assam Valley District. In Chutiā Nāgpur there is a Judicial Commissioner with purely judicial functions. In Jalpaigori and in the districts of the Chutiā Nāgpur Division there are Munsifs; and there are Munsifs also, I believe, in Assam. Considering these facts, and considering the backwardness of the districts mentioned in clause (a), and the financial exigencies of the State, I think the Government could not at present do more."

The Hon'ble RAO SAHEB VISHVANATH NARAYAN MANDLIK said :—" I am sorry that at this stage of the Bill I do not see my way to accept any of the amendments for which my hon'ble friend contends. If Assam is a backward province, I think these provisions might well have been suggested at an earlier stage, seeing that the Bill had been five years before the Council, when it might have been found desirable to re-cast it and divide it if possible into two, applying respectively to the regulation and the non-regulation districts. But to disturb the Bill at this stage seems to me a very impracticable measure, and I therefore regret that I shall not be able to vote for the amendment."

The Motion was put and negatived.

The Hon'ble MR. EVANS' amendment that the words "in consultation with the High Court" be inserted at the commencement of clause (b) of sub-section (1) of section 36 of the Bill was put and agreed to with the substitution of the word "after" for the word "in".

The Hon'ble MR. SCOBLE then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

#### ELECTRICITY BILL.

The Hon'ble SIR THEODORE HOPE moved that the Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE also moved that the Bill, as amended, be passed. He said :—

"The Select Committee, in going through this Bill, have made two alterations which appear to me of sufficient moment to bring to the notice of the Council, although they do not necessitate the republication of the Bill. We have on the one hand defined, and also strengthened, the control which will be exercised over the use of electricity for the general purposes of the public; that is to say, we have provided for the protection of the public whenever any person intends to use electricity for any public purpose or in any public place or in a place where there are likely to be a hundred or more of the public assembled, or a place which is a factory within the meaning of the Factories Act, as defined in section 3 of the Bill; the object being to take proper precautions against injury to life in places where electricity is even temporarily introduced for the purpose of lighting. This precaution, however, we have thought would be sufficiently provided for by simply requiring persons who intend to use the light to give notice to the proper authorities. We do not think it necessary, in the interests of the public in general, that such persons should be troubled to take out a license. On the other hand, we felt it



would be necessary hereafter, whenever the lighting of our towns and streets on a large scale was taken up, that extensive provisions should be made to regulate the use of electricity for such purposes. At the same time, considering the backward state of the subject in India, we did not think that there was at present any necessity for prescribing the details under which Electric Lighting Companies would be required to work. We have therefore cut out from this part of the Bill the portion which related to the grant of licenses; but we have substituted in the preamble words to convey, as far as it is possible for this Council to do so, a clear warning to any persons who may hereafter wish to take up the matter of lighting our streets and towns in general, that they will not be allowed to do so without due restrictions, and probably under the same sort of arrangements as are made for the protection of the public in general in other parts of the civilized world."

The Motion was put and agreed to.

The Council adjourned *sine die*.

FORT WILLIAM;  
The 16th March, 1887. }

S. HARVEY JAMES,  
Offg. Secy. to the Govt. of India,  
Legislative Department.





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SIMLA, SATURDAY, MAY 28, 1887.

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## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 25th May,  
1887.

### PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab.

His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., K.C.I.E.

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble J. B. Peile, M.A., C.S.I.

The Hon'ble J. W. Quinton, C.S.I.

The Hon'ble Lieutenant-Colonel E. G. Wace.

### NEW MEMBER.

The Hon'ble LIEUTENANT-COLONEL WACE took his seat as an Additional  
Member.

### PUNJAB TENANCY BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Lieutenant-Colonel  
Wace be substituted for Colonel Sir W. G. Davies as a member of the Select  
Committee on the Bill to amend the law relating to the Tenancy of Land in  
the Punjab.

The Motion was put and agreed to.

## PUNJAB LAND-REVENUE BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Lieutenant-Colonel Wace be substituted for Colonel Sir W. G. Davies as a member of the Select Committee on the Bill to declare and amend the Land-revenue Law of the Punjab.

The Motion was put and agreed to.

## INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR AUCKLAND COLVIN moved for leave to introduce a Bill to amend the Indian Stamp Act, 1879. He said:—

"The proposal to amend the Indian Stamp Act arose from certain proposals laid before us by the Bengal Government, which, in their turn, led to the issue of the Resolution in the Financial Department dated the 6th March, 1886, afterwards published in the Gazette, in which we pointed out that, with regard to policies of insurance against loss by fire, under the present law the duty is independent of the period in which the policy continues in operation, as also of the amount of the premium paid; that is to say, that the policy, whether taken out for a year or a fraction of a year, at present pays the same amount. The existing duty is, roughly, six annas per one thousand rupees, whatever the duration of the policy, and, as many policies are renewed during the currency of a year, this duty has to be paid on them as often as they are renewed. By the proposed arrangement the duty for renewals of policies for short periods will be reduced, so that persons who take out policies for a month, or three months, will pay duty proportionately. One of the Insurance Companies wrote to suggest that renewals of policy should be prohibited altogether, but we did not feel that in the present state of affairs we were in a position to endorse this proposal. The several Insurance Companies, however, will have the opportunity of furnishing us with their advice in regard to this matter while the Bill is under consideration, and we shall be, I doubt not, mainly guided by the advice so received."

"It is not proposed at present to amend the Stamp Act in any other particular."

The Motion was put and agreed to.

The Hon'ble SIR AUCKLAND COLVIN also introduced the Bill.

The Hon'ble SIR AUCKLAND COLVIN also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 8th June, 1887.

S. HARVEY JAMES,

SIMLA;

The 27th May, 1887.

Offg. Secretary to the Govt. of India,

Legislative Department.



# The Gazette of India.

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SIMLA, SATURDAY, JUNE 11, 1887.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 8th June,  
1887.

### PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab.

His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., K.C.I.E.

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Lieutenant General G. T. Chesney, R.E., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble J. B. Peile, M.A., C.S.I.

The Hon'ble J. W. Quinton, C.S.I.

The Hon'ble Lieutenant-Colonel E. G. Wace.

### INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR AUCKLAND COLVIN moved that the Bill to amend the  
Indian Stamp Act, 1879, be referred to a Select Committee consisting of the  
Hon'ble Messrs. Scoble and Peile and the Mover.

The Motion was put and agreed to.

## GAME PROTECTION BILL.

The Hon'ble MR. PEILE moved for leave to introduce a Bill for the Protection of Game in India. He said:—

"This Bill is not in the nature of a Game law, as might possibly be inferred from its title. The Government of India has never entertained the idea of adding the 'poacher' to the classes on whom the police keep an observant eye. The subject is one which has been frequently under consideration during the last quarter of a century, and the object in view has always been not the protection of private property in game but the protection of the wild creatures themselves from destruction in their breeding season. Even so, the establishment of a close season in a project of law emanating from the Bombay Government was vetoed on the ground that the protection of the *feræ naturæ* from harassment might involve a more serious matter in promoting the harassment of the cultivator of the soil. I believe that Madras is the only Province of the Empire which possesses anything like a game law in the Nilgiris Game Act of 1879, which protects certain game birds from being shot in that district between the 1st March and the 30th September. I am told that under that Act there have been very few convictions, and, as there exists a Nilgiri Game Association, which disregarded an invitation to express an opinion on this Bill, the necessity for further legislation is apparently not very keenly felt there. The conclusion of the Government of India has been that, although opinions vary, there is no strong case for protective legislation of a general kind. This Bill, however, is in no way designed to pursue the unlicensed sportsman on his shooting grounds. It is, in fact, an extension of municipal and cantonment law for the protection, as far as it goes, of animals, defined as game, in their breeding season, and it merely purports to close certain markets against game during that time. It proposes to empower the Local Government, with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or the cantonment-authority of any municipality or cantonment, with the previous sanction of the Local Government, to make rules defining the word 'game' for the purposes of the Act in its application to the municipality or cantonment; to define the breeding season of any kind of game; and to prohibit, under penalty, the possession or sale within the municipality or cantonment of any kind of game during its breeding season. A wide discretion, which no doubt will be exercised with due regard to obvious exceptions, is left to Local Governments in making and sanctioning rules. The Bill introduces nothing new, but it gives legal sanction to a practice which has been in force for some time in Northern India without such sanction, and which would have to be discontinued if it were not made legal."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also introduced the Bill.

The Hon'ble MR. PEILE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

## INDIAN MARINE BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY presented the Report of the Select Committee on the Bill for the better administration of Her Majesty's Indian Marine Service.

## ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON moved for leave to introduce a Bill to establish a University at Allahabad. He said:—

"Nearly 20 years ago a large sum of money was contributed by Native noblemen and gentlemen in the North-Western Provinces for the establishment of a central college at Allahabad; the project was sanctioned by the Government of India; and the Secretary of State, to whom the correspondence was communicated,



expressed a hope that the college might thereafter expand into a university for the North-Western Provinces and the Punjab. The college was established in due course and was associated with the name of Sir William Muir, himself a distinguished scholar as well as statesman, who during his long service had been a firm supporter of the cause of education.

"For many years, however, though provided with a name, the college wanted a permanent local habitation, and was obliged to content itself with temporary lodgings in a hired house until suitable buildings could be erected for its accommodation. These were completed and formally opened last year by Your Excellency accompanied by the Lieutenant-Governor. On that occasion Your Lordship was good enough to promise on behalf of the Government of India the most favourable consideration for the proposals of the Lieutenant-Governor for the establishment of a university at Allahabad, which had been called for in connection with the Report of the Education Commission of 1883.

"That learned body held it to be a point worthy of consideration whether a new university should not then be established for the North-Western Provinces and Oudh.

"Those proposals are embodied in the Bill the subject of the present motion, and their general principles have been approved of by Your Excellency's Government and by the Secretary of State.

"Under these circumstances it will be sufficient for me to indicate very briefly and in general terms the main reasons which have led these high authorities to believe that the measure proposed is desirable and necessary.

"The North-Western Provinces and Oudh contain a population of 44 millions, to whom high English education is imparted in five colleges situated at Allahabad, Benares, Lucknow, Agra and Aligarh. The two first are Government institutions, and the three latter are supported mainly by endowments and receive grants-in-aid from the public funds. The liberality of the Taluqdars of Oudh, the intelligent and unwearied zeal and self-sacrifice of my hon'ble friend Saiyad Ahmad Khan Bahadur, and the public spirit of the inhabitants of Agra and the surrounding districts have founded or maintained the colleges at Lucknow, Aligarh and Agra. These are largely resorted to and turn out every year a considerable and increasing number of students who can only obtain the degree which is the crown of their college career by passing the examinations of the Calcutta University. The number of their students who matriculated has risen from 60 in 1869 to 208 in 1885, and is almost double the average number that matriculated for the Bombay University during the first ten years of its existence. The number of undergraduates studying at these institutions has nearly doubled within the last five years, and already exceeds that of many of the smaller universities of Europe. The average number of both M. A. and B. A. degrees has increased by about a third within the same short period, and is greater than the number conferred by the Calcutta University for many years after its first establishment. The value of the teaching given by the colleges is proved by the high places uniformly gained by their students in the university class lists in spite of disadvantages to which I am about to refer. It is no part of my duty, and it is certainly not in accordance with my inclinations, to detract from the credit due to the Calcutta University for the great impetus it has given to the spread of English education. It was founded 30 years ago, when English education outside Bengal was in the most backward condition, and it sufficed then and for many years to supply the needs of the whole of the Bengal Presidency. But its children are now attaining manhood, and the parental home is becoming too narrow for them. The Punjab has already, by founding a university, started on an independent career, and the Provinces to which the Bill refers are equally qualified and entitled to set up a separate establishment. It is an undoubted hardship to them that the flower of their youth should be guided in their studies and subjected to examination by a university in the management of which they have practically no voice, located in what is to them a distant and a foreign capital, and the great advancement of education in those Provinces and the munificence with which these colleges have been endowed fully justify the establishment there of an institution which shall direct the course of education with a regard, so far as may be, properly had to local peculiarities

and requirements. For it must be remembered that the influence of an Indian university is not confined to its own alumni, but affects in a great degree the teaching in every school within the sphere of its operation. Schoolmasters naturally teach their boys what will tell best in university examinations, and omit from their curriculum subjects which are useless for obtaining university distinctions.

"It is contrary to all experience to expect that a single university can suffice for the 60 millions of Bengal and the 44 millions of the United Provinces, or that a system of studies found adequate and satisfactory in the one case must necessarily be equally applicable to the other.

"Even granting this, and admitting—which is a very large admission—that absolute uniformity in the thousands of schools throughout this great area is desirable, the task of examining and testing the merits of candidates is becoming year by year more and more difficult for the examiners and less and less satisfactory to the public and the candidates themselves. It is impossible to devise any system which will secure equality of marking or uniformity in the standard of excellence where so many as 3,000 candidates have to be dealt with, and this is the number which matriculates annually at the Calcutta University.

"The establishment of a local university will satisfy a general desire of the educated community; it will ensure that the course of study in the schools throughout the North-Western Provinces and Oudh will be directed with greater regard than at present for local requirements; it will afford a stronger guarantee for the careful examination of students during their university career, especially as oral examination, quite impracticable under the existing system, can be constantly resorted to; it will meet an increasing demand for high education among the upper classes of Native society, and may fairly be expected to stimulate such education not merely in the North-Western Provinces and Oudh but in the adjoining districts of the Central Provinces and Rajputana, and to evoke in a still greater degree that liberality in the cause of education in which the inhabitants of Hindustan have not hitherto been found wanting."

The Motion was put and agreed to.

The Hon'ble MR. QUINTON also introduced the Bill.

The Hon'ble MR. QUINTON also moved that the Bill and Statement of Objects and Reasons be published in the North-Western Provinces and Oudh Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 29th June, 1887.

S. HARVEY JAMES,

*Offg. Secretary to the Govt. of India,*

*Legislative Department.*

SIMLA;

*The 10th June, 1887.*

